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THESIS

**THE MARITIME OPERATIONAL THREAT RESPONSE
PLAN: A MODEL FOR INTERAGENCY COOPERATION**

by

Lee R. Gorlin

March 2023

Co-Advisors:

Christopher Bellavita (contractor)
Mollie R. McGuire

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**THE MARITIME OPERATIONAL THREAT RESPONSE PLAN: A MODEL
FOR INTERAGENCY COOPERATION**

Lee R. Gorlin
Lieutenant Commander, United States Coast Guard
BS, Wilmington College, 2016

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March 2023**

Approved by: Christopher Bellavita
Co-Advisor

Mollie R. McGuire
Co-Advisor

Erik J. Dahl
Associate Professor, Department of National Security Affairs

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ABSTRACT

History has shown that homeland security is a learning process and an evolution, whereby threats are identified and strategies and policies are developed and implemented. Those strategies and policies are occasionally tested in the real world and refined to adapt to the new threat landscape. The modern homeland security apparatus is characterized by overlapping and interconnecting legal and jurisdictional responsibilities that intertwine response agencies and require a whole-of-government response. A reorganization of the federal government in response to the terrorist attacks of September 11, 2001, created a plethora of new policies and procedures. This restructuring produced overlapping interests and responsibilities that required cross-disciplines, jurisdictions, and authorities to manage threats appropriately. To adapt, the federal government developed several strategies and frameworks for organizing these disparate departments and agencies. This thesis provides a comprehensive understanding of the Maritime Operational Threat Response (MOTR) Plan and how it successfully connects federal organizations to adapt and deal with threats in the unique environment of the maritime domain. Also, it identifies several elements that make the MOTR Plan successful, so the plan may be exported to other areas such as federal, state, or local governments and international partners interested in interagency collaboration.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACP	area contingency plan
AFRICOM	Africa Command
AMSC	Area Maritime Security Committee
AMSP	area maritime security plan
CBP	Customs and Border Protection
DC	Deputies Committee
DEA	Drug Enforcement Agency
DHS	Department of Homeland Security
DOD	Department of Defense
DOJ	Department of Justice
DOS	Department of State
DOT	Department of Transportation
EEZ	exclusive economic zone
FBI	Federal Bureau of Investigation
GAO	Government Accountability Office
GMCC	Global MOTR Coordination Center
HSPD	homeland security presidential directive
IC	Intelligence Community
ICE	Immigration and Customs Enforcement
ICS	Incident Command System
I-MOTR	informational MOTR
IPC	Interagency Policy Committee
IUU	illegal, unreported, and unregulated (fishing)
JCS	Joint Chiefs of Staff
JIATF	Joint Interagency Task Force
JIATF-CT	Joint Interagency Task Force–Counterterrorism
JOA	joint operating area

LTTE	Liberation Tigers of Tamil Eelam
MERP	Maritime Event Response Protocol
MOC	Migrant Operations Center
MOTR	Maritime Operational Threat Response
MSIPC	Maritime Security Interagency Policy Committee
NCIS	Naval Criminal Investigative Service
NIMS	National Incident Management System
NMIC	National Maritime Intelligence Center
NOAA	National Oceanic and Atmospheric Administration
NORTHCOM	Northern Command
NRF	National Response Framework
NRP	National Response Plan
NSC	National Security Council
NSGB	Naval Station Guantanamo Bay
NSPD	National Security Presidential Directive
OSD	Office of the Secretary of Defense
PC	Principals Committee
PD	presidential directive
PPD	presidential policy directive
SAR	search and rescue
SVTC	secure video teleconference
UNCLOS	United Nations Law of the Sea Convention
U.S.C.	United States Code
USCIS	United States Citizenship and Immigration Service
USCG	U.S. Coast Guard
USG	U.S. government
VTC	video teleconference
XO	executive officer

EXECUTIVE SUMMARY

History has shown that homeland security is a learning process and an evolution, whereby threats are identified and strategies and policies are developed and implemented. Those strategies and policies are occasionally tested in the real world and refined to adapt to the new threat landscape. The modern homeland security apparatus is characterized by overlapping and interconnecting legal and jurisdictional responsibilities that intertwine response agencies and require a whole-of-government response.¹

This thesis provides a comprehensive understanding of the Maritime Operational Threat Response (MOTR) Plan and how it successfully connects federal organizations to adapt to and deal with threats in the unique environment of the maritime domain. This thesis identifies several crucial elements of the MOTR Plan that offer adaptability for other areas in federal, state, or local governments and international partners interested in interagency collaboration.

A reorganization of the federal government in response to the terrorist attacks of September 11, 2001, created a plethora of new policies and procedures.² This restructuring produced overlapping interests and responsibilities that require cross-disciplines, jurisdictions, and authorities to manage threats appropriately.³ To adapt, the federal government developed several strategies and frameworks for organizing these disparate departments and agencies.⁴ Two examples of these frameworks are the National Response Framework (NRF) and the Joint Interagency Task Force–South (JIATF-South).

¹ Janet A. St. Laurent and Jacquelyn L. Williams-Bridgers, *Interagency Collaboration: Key Issues for Congressional Oversight of National Security Strategies, Organizations, Workforce, and Information Sharing*, GAO-09-904SP (Washington, DC: Government Accountability Office, 2009), 1, <https://www.gao.gov/assets/gao-09-904sp.pdf>.

² “Homeland Security,” U.S. Senate Committee on Homeland Security and Governmental Affairs Issues, accessed August 6, 2022, <https://www.hsgac.senate.gov/issues/homeland-security>.

³ Brian Wilson and Nora Johnson, “Bordering on Crisis: Overcoming Multiagency Crisis Coordination Challenges,” in *Crisis Lawyering: Effective Legal Advocacy in Emergency Situations*, ed. Ray Brescia and Eric Stern (New York: NYU Press, 2021), 275–276, <https://doi.org/10.18574/nyu/9781479801701.003.0013>.

⁴ St. Laurent and Williams-Bridgers, *Interagency Collaboration*, 1–2.

While both examples organize departments and agencies, they take different approaches. The NRF provides a “unity of effort” model, whereby responders are organized and directed by an incident commander or unified command toward a common goal.⁵ The JIATF-South model utilizes a top-down, military, “unity of command” approach, whereby responders are focused on a single mission and take task direction from a single command.⁶

There are many challenges in getting multiple agencies to work with one another. Trust must be built, information must be shared, resources must be obtained, and all of it requires funding.⁷ In addition, many agencies may claim primacy in areas where there is shared responsibility or jurisdiction, leading to ambiguity and animosity among responding parties.⁸ The National Security Council (NSC), restructured under the Bush administration, has overcome many of these challenges and established national policy across the federal government.⁹ This feat was made possible by a mandate and the ability to resolve differences in pursuit of a desired national outcome rather than individual interests.¹⁰

Examining the maritime domain reveals that it holds physical and legal complexities and complications that challenge homeland security professionals.¹¹ The vastness of the open ocean and intricacies of the nation’s many port complexes create ideal

⁵ Department of Homeland Security, *National Incident Management System*, 3rd ed. (Washington, DC: Department of Homeland Security, 2017), 3, https://www.fema.gov/sites/default/files/2020-07/fema_nims_doctrine-2017.pdf.

⁶ Evan Munsing and Christopher J. Lamb, *Joint Interagency Task Force-South: The Best Known, Least Understood Interagency Success*, INSS Strategic Perspectives 5 (Washington, DC: National Defense University Press, 2011), 76, <https://ndupress.ndu.edu/portals/68/documents/stratperspective/inss/strategic-perspectives-5.pdf>.

⁷ St. Laurent and Williams-Bridgers, *Interagency Collaboration*.

⁸ Gary L. Tomasulo Jr., “Evolution of Interagency Cooperation in the United States Government: The Maritime Operational Threat Response Plan” (master’s thesis, Massachusetts Institute of Technology, 2010), 45–46, <http://hdl.handle.net/1721.1/59157>.

⁹ George W. Bush, *Organization of the National Security Council System*, National Security Presidential Directive 1 (Washington, DC: White House, 2001), <https://irp.fas.org/offdocs/nspd/nspd-1.pdf>.

¹⁰ Bush.

¹¹ White House, *The National Strategy for Maritime Security* (Washington, DC: White House, 2005), <https://www.hsdl.org/?view&did=456414>.

conditions and ample opportunity to exploit security gaps.¹² Threat response in the maritime domain is accompanied by multiple departments and agencies with overlapping responsibilities, as with the NRF, JIATF-South, and NSC.¹³ The difference in the maritime domain is that no one “owns” the oceans, and no department or agency has legal authority and jurisdiction to operate without the assistance of partner agencies.¹⁴ This raises the question of how agencies will coordinate their actions for maritime threat response.

The Coast Guard saw these challenges well before 9/11 with the attempted defection of a Lithuanian seaman, who jumped from his Russian fishing boat onto a Coast Guard cutter off the coast of Martha’s Vineyard, Massachusetts. As a result of the failed communications and unclear protocols between the Coast Guard and the State Department, the seaman was beaten and dragged back to his boat by the Russian crew, an episode seen as a failure of the U.S. government.¹⁵

From this event, the federal government realized the need for a better way to organize agencies for maritime threat response; that way would become the MOTR Plan in 2006.¹⁶ In drafting the plan, several models were considered, but none fit the unique requirements of the maritime domain quite like the NSC model. While not entirely the same, many elements that make the NSC work can be found in the MOTR Plan.

Since the development of the MOTR Plan in 2006, it has been used daily to coordinate response activities for threats in the maritime domain.¹⁷ Often, these are routine incidents that help participating agencies decide how to handle illicit maritime drug or migrant smuggling. The MOTR Plan, however, can also scale up to mitigate larger threats, such as ambiguous threats involving potential terrorist activity, delicate diplomatic matters,

¹² Tomasulo, “Evolution of Interagency Cooperation,” 17.

¹³ Brian Wilson, “Making Stovepipes Work,” *Proceedings: U.S. Naval Institute* 137, no. 10 (October 2011): 1.

¹⁴ Wilson, 1.

¹⁵ U.S. House of Representatives, *Attempted Defection by Lithuanian Seaman Simas Kudirka: Report of the Subcommittee on State Department Organization and Foreign Affairs*, CMP-1971-FOA-0004 (Washington, DC: Government Printing Office, 1971), ProQuest.

¹⁶ Wilson, “Making Stovepipes Work,” 2.

¹⁷ Wilson, 2.

and significant piracy events, like the kidnapping of the U.S. Merchant Captain Richard Phillips aboard the Motor Vessel *Maersk Alabama*.¹⁸

A thorough analysis of what MOTR is and how it came to be followed by examples of the MOTR Plan in action offers a perspective into why it has been successful and potential opportunities for its use elsewhere. The research concludes that the MOTR Plan is the backbone of a process for interagency coordination where no single agency can act alone. A full-time staff that maintains the plan as the executive secretariate, coupled with the flexibility of the plan, afforded through revisions and the addition of new protocols, keeps the document relevant and applicable.

This thesis finds that the MOTR Plan and all the elements that make it successful may not be universally adaptable. However, they may be best applied in areas where there is no plan or ownership of the space, such as airspace, cyberspace, or even outer space.

¹⁸ Scott Genovese, “The Maritime Operational Threat Response Plan: The Unified U.S. Response to Maritime Piracy,” *Proceedings: Coast Guard Journal of Safety at Sea* 69, no. 1 (Spring 2012): 56–57.

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I. INTRODUCTION

As homeland security threats grow in scope and complexity, so do the U.S. government (USG)’s responses. Many of these responses require cross-disciplines, jurisdictions, and authorities to manage threats appropriately. Given most federal government agencies’ rigid legal authorities and resource limitations, a whole-of-government collaborative effort has become increasingly necessary to mitigate and respond to these events effectively.¹ The USG has successfully created frameworks to support the alignment of federal agencies.² In particular, the Maritime Operational Threat Response (MOTR) Plan, pronounced “moh-ter,” is the framework established to coordinate a federal response to threats in the maritime environment.³ The MOTR Plan has been marketed domestically and internationally as a means to facilitate successful interagency coordination.⁴ However, explaining the MOTR Plan is insufficient for any USG agency to realize its benefits, the specifics of which are unwritten and, therefore, not readily adopted or conveyed to outside groups.

The president of the United States approved the MOTR Plan in 2006 as a supporting component of the 2005 *National Strategy for Maritime Security*.⁵ The MOTR Plan is a consistent, coordinated, and repeatable process “to achieve a coordinated U.S. Government response to threats against the United States and its interests in the maritime domain.”⁶ Daily MOTR coordination aligns information sharing and responses to challenges

¹ Evan Munsing and Christopher J. Lamb, *Joint Interagency Task Force–South: The Best Known, Least Understood Interagency Success*, INSS Strategic Perspectives 5 (Washington, DC: National Defense University Press, 2011), 4, <https://ndupress.ndu.edu/portals/68/documents/stratperspective/inss/strategic-perspectives-5.pdf>.

² White House, *The National Strategy for Maritime Security* (Washington, DC: White House, 2005), <https://www.hsdl.org/?abstract&did=456414>.

³ “Dictionary.Com,” s.v. “motor,” accessed July 11, 2021, <https://www.dictionary.com/browse/motor>.

⁴ This information was gleaned from personal experience working at the Global MOTR Coordination Center in 2020.

⁵ White House, *The National Strategy for Maritime Security*, 27.

⁶ “Global MOTR Coordination Center (GMCC),” Department of Homeland Security, September 8, 2011, <https://www.dhs.gov/global-motr-coordination-center-gmcc>.

including piracy, drug trafficking, terrorist activities, fisheries violations, cyber incidents, and migrant smuggling.⁷

In 2010, Presidential Policy Directive (PPD)-18 established the Global MOTR Coordination Center (GMCC) as the national MOTR coordinator and the plan's executive secretariat.⁸ Since then, subsequent revisions and modifications of MOTR have specified operational protocols that guide certain events. The evolving and flexible nature of the plan has allowed it to grow and adapt to the ever-changing environment, policies, political landscape, and needs of the many participating federal agencies.⁹ Facilitating this evolution, the Departments of Homeland Security, State, and Defense have reflected policy developments in subsequent protocols and standard operating procedures, which require National Security Council Policy Committee approval for final implementation.¹⁰

The broad recognition of MOTR's importance has stimulated its growth, as evidenced by the establishment of the GMCC and MOTR's daily use. Although not unique to the maritime environment, government coordination encompasses the spectrum of federal, state, and local jurisdictions and interagency cooperation at all levels. The MOTR Plan successfully achieves desired national outcomes and offers a framework that may be exportable and replicable elsewhere. Although the federal government manages MOTR's responses well and uses the plan daily, the lack of success measures or written, identifiable mechanisms prevents it from being readily exported to other U.S. agencies or countries. Identifying success measures and understanding how practical techniques and policies contribute to a whole-of-government response can help improve the function and interoperability of the entities involved.

⁷ This author observed these activities while assigned as a MOTR facilitator at the Global MOTR Coordination Center in 2020.

⁸ Barack Obama, *National Strategy for Maritime Security*, Presidential Policy Directive 18 (Washington, DC: White House, 2012), B-1.

⁹ Brian Wilson, "Making Stovepipes Work," *Proceedings: U.S. Naval Institute* 137, no. 10 (October 2011): 36.

¹⁰ Wilson.

A. RESEARCH QUESTION

Which components of the MOTR Plan could function successfully across federal interagency groups, and which elements of the plan may be adapted and exported to other federal, state, and local programs or allied nations looking to improve government coordination?

B. LITERATURE REVIEW

The events of September 11, 2001, revealed the need for better interagency coordination to respond to and plan for acts of terror and other threats to the homeland, including maritime threats. Academic work focused on interagency groups and coordination has been robust, specifically concerning case studies of land-based military operations and Department of Defense (DOD) policies. Most of the literature focuses on the national strategic direction of civil–military cooperation. It recognizes that the USG poorly coordinates actions, strategies, and policies across participating elements in interagency operations.¹¹ This focus on the DOD and civilian relationships forms a specific theme highlighting national security objectives. Much of the ideology behind DOD policies on interagency cooperation developed from case studies and lessons learned from fighting conflicts in Iraq and Afghanistan. Further literature on civil–military cooperation frequently appears in military and security journals, namely *Joint Forces Quarterly*. An analysis of these articles and DOD policies forms the academic framework used in this thesis.

The DOD’s 2019 *Joint Guide for Interagency Doctrine* (Supplement to Joint Publication 3-08, *Interorganizational Cooperation Appendices*) “attempts to socialize interagency frameworks at the strategic level with the focus on national security . . . to improve communication and increase workforce efficiencies.”¹² As an organizational

¹¹ Martin J. Gorman and Alexander Krongard, “A Goldwater-Nichols Act for the U.S. Government: Institutionalizing the Interagency Process,” *Joint Forces Quarterly*, no. 39 (July 2005): 52, <https://apps.dtic.mil/sti/pdfs/ADA479861.pdf>.

¹² Department of Defense, *Joint Guide for Interagency Doctrine*, Supplement to Joint Publication 3-08, *Interorganizational Cooperation Appendices* (Washington, DC: Department of Defense, 2019), i, https://www.jcs.mil/Portals/36/Documents/Doctrine/Interorganizational_Documents/jg_ia.pdf?ver=2020-02-03-151039-500.

doctrine, the document takes a linear approach to outline the foundations and organizational structures of USG roles and interactions.¹³ It defines international and domestic frameworks and explains how outside entities integrate into DOD strategies and operations.¹⁴ The guide's "force employment observations," which consist of five mini case studies that analyze civilian–military workforce cooperation and coordination, are pertinent to this thesis. These include the 2010 earthquake in Haiti, the 2014 Ebola outbreak in West Africa, the 2011 triple disaster in Japan, Hurricanes Katrina (2005) and Sandy (2012), and unity issues in Afghanistan and Iraq.¹⁵ DOD policies and doctrine acknowledge the growing need to formalize government strategies that incorporate interagency cooperation. Doctrine helps to identify mission objectives but purposely fails to implement tactical procedures describing how to execute them.¹⁶ This thesis hopes to expand on such frameworks to provide strategies for execution.

Literature calling for greater interagency integration, coordination, and cooperation asserts the need for streamlined decision-making that transcends any one department or agency but differs on the means of execution. Gorman and Krongard argue that interagency collaboration succeeds when executed under a unity-of-command structure.¹⁷ As a model, they offer a framework like the Joint Chiefs of Staff (JCS), established with the Goldwater-Nichols Department of Defense Reorganization Act of 1986.¹⁸ This law enhanced the authority of the chairman of the JCS as "the principal military advisor to the President, the National Security Council (NSC), and the Secretary of Defense" and established unified combatant commands that aligned the armed services within the DOD to conduct better

¹³ Department of Defense, 7–10.

¹⁴ Department of Defense, 11–15.

¹⁵ Department of Defense, 23–27.

¹⁶ Joint Chiefs of Staff, *Interorganizational Cooperation*, Joint Publication 3-08 (Washington, DC: Joint Chiefs of Staff, 2016), i, https://irp.fas.org/doddir/dod/jp3_08.pdf.

¹⁷ Gorman and Krongard, "A Goldwater-Nichols Act for the U.S. Government," 54.

¹⁸ Gorman and Krongard, 54.

joint operations.¹⁹ Furthermore, Gorman and Krongard recommend creating new federal interagency organizations that comprise “relevant policy, military, intelligence, and other parts of the Government.”²⁰ However, the authors advise that this new agency retain its parent agency’s identity and authority by working under one senior leader in a “lead agency concept.”²¹ In this way, joint efforts work well under the unity of command, but some divergence may allow individual agency identity.

To scholars, the unity of effort may take different forms for interagency teams. Bogdanos contends that the unity of effort is best for implementing interagency teams, like the NSC system revised under the National Security Presidential Directive (NSPD)-1 in 2001.²² The NSC system, under NSPD-1, directs the coordination of “executive departments and agencies in the effective development and implementation of [those] national security policies.”²³ Further, to develop a daily joint organization between departments and agencies, NSPD-1 establishes the NSC’s Policy Coordination Committees.²⁴ Bogdanos cites his experience as an officer on the Joint Interagency Task Force–Counterterrorism (JIATF-CT) in his November 2001 deployment in Afghanistan, where this unity-of-effort group cobbled together in austere conditions proved successful. No matter the form—whether the NSC, or the JIATF-CT, or an ad hoc committee—interagency efforts can be successful.

Interestingly, in its *Joint Vision 2020*, the JCS admits the need for the unity of effort in interagency operations: “The primary challenge of interagency operations is to achieve the unity of effort despite the diverse cultures, competing interests, and differing priorities

¹⁹ Goldwater-Nichols Department of Defense Reorganization Act of 1986, Public Law 99-433, *U.S. Statutes at Large* 100 (1986): 1005, 1012, https://history.defense.gov/Portals/70/Documents/dod_reforms/Goldwater-NicholsDoDReordAct1986.pdf.

²⁰ Gorman and Krongard, “A Goldwater-Nichols Act for the U.S. Government,” 54.

²¹ Gorman and Krongard, 52.

²² Matthew F. Bogdanos, “Joint Interagency Cooperation: The First Step,” *Joint Forces Quarterly*, no. 37 (April 2005): 11, <https://ndupress.ndu.edu/portals/68/Documents/jfq/jfq-37.pdf>.

²³ George W. Bush, *Organization of the National Security Council System*, National Security Presidential Directive 1 (Washington, DC: White House, 2001), 2, <https://irp.fas.org/offdocs/nspd/nspd-1.pdf>.

²⁴ Bush, 5.

of the participating organizations.”²⁵ Munsing and Lamb contribute an additional layer of complexity, offering that JIATF-South follows a unity-of-command model yet achieves the unity of effort without unified command.²⁶ These authors endorse the JIATF-South as the “gold standard” for interagency cooperation because it institutes a unity of command subordinate to the U.S. Southern Command’s combatant commander. However, Munsing and Lamb credit the model’s flexibility because it makes “every effort to take into account the parent organizations, policies, directives, rules of engagement and legal authorities and constraints [i.e., the unity of effort].”²⁷ In this way, JIATF-South strikes a balance between the unity of command and the unity of effort.

The debate surrounding the unity of command versus the unity of effort offers two unique and starkly different approaches to coordinating separate government bodies with their principles, policies, and legal authorities. On the one hand, the unity of command supplies a lead agency, group, or individual with the authority to direct the actions of others. On the other hand, a unity-of-effort model adopts a more independent but shared approach to exchange information and coordinate efforts.²⁸ Since arguments support and contest each method, this thesis examines both perspectives to understand cross-discipline coordination.

Scholars concur that creating incentives to assign the best military officers to joint operations professionalizes such operations. The Goldwater-Nichols Act established the joint-specialty officer designation to identify military officers specifically trained, educated, and experienced in joint DOD matters.²⁹ This designation promotes “a culture of jointness” and “enhances the quality, stability, and experience level of officers” in joint

²⁵ Joint Chiefs of Staff, *Joint Vision 2020: America’s Military: Preparing for Tomorrow* (Washington, DC: Government Printing Office, 2000), 18, <https://www.hsdl.org/?abstract&did=446826>.

²⁶ Munsing and Lamb, *Joint Interagency Task Force–South*, 76.

²⁷ Munsing and Lamb, 47.

²⁸ Harold Quinton Lucie, “Unity of Command for Federal Consequence Management” (master’s thesis, Naval Postgraduate School, 2013), 9, <http://hdl.handle.net/10945/37664>.

²⁹ Goldwater-Nichols DOD Reorganization Act.

DOD assignments.³⁰ Gorman and Krongard suggest creating professional training that supports interagency organizations and offers promotion opportunities for those who support meeting interagency objectives.³¹ Similarly, Bogdanos recommends creating “a joint interagency designation similar to the DOD joint-specialty officer designation” and other educational program incentives.³² To achieve the goals of the DOD’s Joint Publication 3.08, *Interorganizational Cooperation*, regarding interorganizational units focused on cooperation and shared situational awareness, the scholarly literature concurs that officers with similar education should collaborate to navigate the complexities of a whole-of-government approach.³³

Using this literature to characterize essential elements of coordination and pain points experienced by users, this thesis identifies ideal solutions to enhance coordination. Most of the research relevant to the current study focuses solely on civilian–military interagency coordination. Evidence from these studies reveals that interagency coordination occurs in the stovepipes of individual agencies. Personnel hesitate to share information or resources for fear of losing autonomy or authority and thus address specific challenges by forming ad hoc or temporary working groups.³⁴ Although not appropriate or applicable to all interagency groups or ventures, many agencies that contribute by coordinating civilian–military interagency operations may be helpful in other contexts. This research helps to set the stage for further analysis and better define the interagency operating environment.

C. RESEARCH DESIGN

By presenting a variety of case studies, this thesis describes a whole-of-government approach to solving complex, multifaceted threat scenarios. Additionally, these case

³⁰ Scott A. Carpenter, “The Joint Officer: A Professional Specialist” (research paper, Army War College, 2011), 1–2, <http://www.dtic.mil/docs/citations/ADA543195>.

³¹ Gorman and Krongard, “A Goldwater-Nichols Act for the U.S. Government,” 56.

³² Bogdanos, “Joint Interagency Cooperation,” 17–18.

³³ Joint Chiefs of Staff, *Interorganizational Cooperation*, II–16.

³⁴ Munsing and Lamb, *Joint Interagency Task Force–South*.

studies help illustrate how the MOTR Plan has been implemented and highlight the results produced. The case discussions consider beneficial and detrimental effects on the desired national outcome. The cases were drawn from GMCC files and open-source documents to reveal historical lessons learned from interagency working groups and whole-of-government responses.

The case studies were examined within the context of the MOTR Plan. Establishing the framework for case study analysis, this thesis summarizes the MOTR Plan and its protocols to provide the plan's scope and purpose. Additionally, providing a broader context, this thesis discusses agency roles and responsibilities and the relationships between interagency players that participate in MOTR. Understanding historical precedents offers insights into how interagency joint actions evolved, so this thesis includes the history of the MOTR Plan, explains its purpose, and examines the national policies that have contributed to its development. This evaluation reviews Presidential Directive (PD)-27, NSPD-41/Homeland Security Presidential Directive (HSPD)-13, the *National Strategy for Maritime Security*, and PPD-18. By examining these foundational documents, this thesis details what the MOTR Plan is and, equally important, what it is not, as well as the evolution of interagency progress regarding maritime threats to the United States.

To garner insights and a strategic vision for the future of the MOTR Plan, the director and deputy director of the GMCC were interviewed. Both initially helped to establish the GMCC and draft the original MOTR Plan, so they offer a unique perspective critical to understanding how various federal agencies come together to produce a desired national outcome. Before interviews were conducted, interview questions were submitted to the Naval Postgraduate School's Institutional Review Board, which determined that this research did not involve the use of human subjects and cleared the use of the lessons learned material. The conclusion of this thesis contributes best practices that may be used as a framework for whole-of-government responses outside the maritime realm.

D. CHAPTER OVERVIEW

The upcoming chapters identify a post-9/11 world confronted by unique challenges from new threats and examine the way the United States sees those threats and the

government frameworks built to combat them. Chapter II prepares the battlespace, introducing the concept of interagency collaboration and explaining why agencies must work together to overcome challenges when coordinating across the government. In examining the history of three interagency frameworks, the chapter illustrates the interrelated actions and overlapping interests between departments and agencies that require close and careful coordination.

Chapter III introduces the MOTR Plan as a flexible, adaptable interagency framework for managing non-military threats in the maritime domain. Born out of inefficiencies and resulting from policy gaps of the past, the MOTR Plan has evolved into an effective mechanism that brings federal agencies together through the unity of effort to achieve a desired national outcome.

An analysis of the maritime domain in Chapter IV examines the complexities surrounding the physical characteristics and legal nuances of the operating environment that make its protection particularly challenging while facilitating commerce. A description and understanding of the maritime domain help to illustrate how the recommendations that follow translate into other spaces.

Chapter V offers several case studies that examine the efficacy of the MOTR Plan as a coordinating mechanism and the plan's evolution in developing protocols that keep it relevant. The case studies help identify the findings and recommendations presented in Chapter VI.

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II. INTERAGENCY INTERACTION

This chapter introduces the concept of interagency collaboration and describes why organizations must work together and what challenges they face when coordinating across the government. It offers examples of interagency models currently in use and describes how they compare to one another. Understanding the need for interagency coordination and an analysis of these models gives context to the MOTR Plan, the interagency framework for federal government coordination in the maritime domain.

Advancements in technology and society have enhanced people's ability to connect with one another. This strengthening of ties has led to increased dependence on one another and the complete globalization of economies.³⁵ As risks and vulnerabilities become shared enterprises among all parties, this interdependence and interconnectivity can lead to significant disruptions.³⁶ The concept of interdependence affects domestic frameworks as it does global dynamics. The post-9/11 era has ushered in a society "obsessively preoccupied with security and very sensitive to the slightest sign of its imperilment."³⁷ Domestically, federal, state, and local agencies are intertwined and share the same risks and obligations in mitigating and responding to threats. The 9/11 terrorist attacks altered how the United States views homeland security, forcing American leaders to realize new ambiguous threats that can originate from multiple sources.³⁸ These threats are frequently interrelated, which "makes it difficult, if not impossible, for any single agency to effectively address [them] alone," requiring "the U.S. government to enhance collaborations with interagency and international partners."³⁹

³⁵ Patrick Lagadec and Benjamin Topper, "How Crises Model the Modern World," *Journal of Risk Analysis and Crisis Response* 2, no. 1 (2012): 25, <https://doi.org/10.2991/jracr.2012.2.1.3>.

³⁶ Lagadec and Topper, 25.

³⁷ Lagadec and Topper, 22.

³⁸ Janet A. St. Laurent and Jacquelyn L. Williams-Bridgers, *Interagency Collaboration: Key Issues for Congressional Oversight of National Security Strategies, Organizations, Workforce, and Information Sharing*, GAO-09-904SP (Washington, DC: Government Accountability Office, 2009), 1, <https://www.gao.gov/assets/gao-09-904sp.pdf>.

³⁹ St. Laurent and Williams-Bridgers, 1.

The complex threats and security responses faced by the United States often require the comprehensive effort of coordinated and cooperating agencies, “each with their own mandates, capabilities, authorities, and objectives.”⁴⁰ These collaborative and cooperating agencies are commonly referred to as “the interagency” and consist of “a whole-of-government approach that integrates the cooperative efforts of USG departments and agencies toward unity of effort between them.”⁴¹ While frequently necessary, the integration of cooperative efforts is often stymied by a bureaucracy that confounds such efforts.

A. WHY IS A WHOLE-OF-GOVERNMENT APPROACH NECESSARY?

During the Cold War, the United States built departments and agencies that focused on national security activities against traditional state-based threats.⁴² These departments and agencies concentrated on a one-dimensional threat and often operated unilaterally and with little collaboration in exercising traditional national security efforts. While not wholly unprepared to protect the homeland, “we lacked a unifying vision, a cohesive strategic approach, and the necessary institutions within government to secure the Homeland against terrorism.”⁴³

The terrorist attacks of September 11, 2001, and other events have uncovered the need to address challenges to national security from unconventional threats from non-state actors, including those from “extremist groups, cyber-attacks, drug trafficking, infectious disease, and energy threats.”⁴⁴ The unconventional nature of non-state actors offers a challenge to traditional methods and frameworks for addressing national security activities. Because these novel threats are often interrelated, responding to and planning for them

⁴⁰ Department of Defense, *Joint Guide for Interagency Doctrine*, I–2.

⁴¹ Department of Defense, I–2.

⁴² St. Laurent and Williams-Bridgers, *Interagency Collaboration*, 1.

⁴³ Homeland Security Council, *National Strategy for Homeland Security* (Washington, DC: Government Printing Office, 2007), 3, https://www.dhs.gov/xlibrary/assets/nat_strat_homelandsecurity_2007.pdf.

⁴⁴ St. Laurent and Williams-Bridgers, *Interagency Collaboration*, 1.

frequently require resources, authorities, and jurisdictions from multiple agencies.⁴⁵ The intertwined nature of the modern threat landscape requires coordination between organizations that have the collective responsibility to mitigate threats. U.S Army General George W. Casey Jr. noted in August 2007 that the world would “soon face an era of ‘persistent conflict,’” and indicated the need to adapt to “effectively meet future challenges.”⁴⁶

While the national security environment changed, agencies and policies have also evolved. In response to the terrorist attacks of September 11, 2001, the Homeland Security Act of 2002 “consolidated 22 diverse agencies and bureaus” and created the Department of Homeland Security (DHS).⁴⁷ Paramount in this merger was the need to “ensure that key agencies within the federal government are working together in partnership with state and local government to prevent future disasters and, if a disaster does occur, to respond swiftly and effectively.”⁴⁸ A reorganization of the federal government of this magnitude has not been seen since World War II, granting DHS broad jurisdiction over homeland security issues.⁴⁹

Additionally, there was a flurry of NSPDs and HSPDs attempting to address gaps in federal responses. Many of these new directives assigned roles and responsibilities to different departments within the federal government. For example, HSPD-5, *Management of Domestic Incidents*, provides direction for and requires coordination between the secretary of homeland security, as the principal federal official for domestic incident management, and the attorney general, the secretary of defense, the secretary of state, the assistant to the president for homeland security, and the assistant to the president for

⁴⁵ St. Laurent and Williams-Bridgers, 1.

⁴⁶ Sara Wood, “Army Preparing for Future of Conflict, Gen. Casey Says,” Army News Service, August 15, 2007, https://www.army.mil/article/4427/army_preparing_for_future_of_conflict_gen_casey_says.

⁴⁷ “Homeland Security,” U.S. Senate Committee on Homeland Security and Governmental Affairs Issues, accessed August 6, 2022, <https://www.hsgac.senate.gov/issues/homeland-security>.

⁴⁸ Senate Committee on Homeland Security and Governmental Affairs Issues.

⁴⁹ Senate Committee on Homeland Security and Governmental Affairs Issues.

national security affairs.⁵⁰ HSPD-5 is not unique in calling for a consistent nationwide approach to interoperability and multiagency coordination; all HSPDs require collaboration or coordination in some form. As it pertains to this thesis, NSPD-41/HSPD-13, *Maritime Security Policy*, “directs the coordination of the USG maritime security programs and initiatives to achieve a comprehensive and cohesive national effort to involve appropriate federal, state, local, and private sector entities.”⁵¹

The growing complexity of defending the homeland has evolved as well as the understanding of what comprises homeland security, which expanded to address not only asymmetric threats like terrorism but also vulnerabilities from nature or human-made disasters.⁵² As the threats and the policies to address those threats have evolved, agencies have begun to understand how those threats and policies manifest at the tactical level and why whole-of-government participation is necessary. For example, a whole-of-government approach is common in the disposition of a migrant who makes an asylum request after being interdicted in the Caribbean Sea by the U.S. Coast Guard (USCG), a component of DHS. The steps to address the asylum claim require the involvement of several other DHS agencies, including the U.S. Citizenship and Immigration Service (USCIS), Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE). In this instance, and assuming the claim is credible, USCIS would process and validate the asylum request, CBP would take custody of the migrant, and ICE would process the migrant’s final disposition. Additionally, DHS policy and legal experts would ensure that all components meet policy and legal standards along the way.

Depending on the circumstances of the asylum case, the Department of State (DOS), Department of Justice (DOJ), and DOD might be involved. Specifically, the DOS might facilitate third-country resettlement or validate non-refoulement procedures, the DOJ might manage potential criminal proceedings as necessary, and the DOD might house

⁵⁰ George W. Bush, *Management of Domestic Incidents*, Homeland Security Presidential Directive 5 (Washington, DC: White House, 2003), 1–3.

⁵¹ George W. Bush, *Maritime Security Policy*, National Security Presidential Directive 41/Homeland Security Presidential Directive 13 (Washington, DC: White House, 2004), 1, <https://irp.fas.org/offdocs/nspd/nspd41.pdf>.

⁵² Homeland Security Council, *National Strategy for Homeland Security*, 3.

migrants at its facilities while the asylum process proceeds. While working within their legal or statutory framework, these departments or agencies bring together different puzzle pieces that no single organization could offer alone. These interrelated actions require close and careful coordination with all the entities involved, including sharing information and other necessary communications.

B. CURRENT EXAMPLES OF INTERAGENCY FRAMEWORKS

In addition to the many policies and directives that came after 9/11, and recognizing the importance of whole-of-government responses, the USG began promulgating several frameworks to organize once disparate organizations and orient them in a unified direction. The original *National Strategy for Homeland Security* was issued in July 2002 and later updated in October 2007. It serves as a unifying strategy to provide a “common framework by which our entire Nation should focus its efforts.”⁵³ Notably, the strategy recognizes that the homeland security mission is a shared responsibility with common goals, responsibilities, and accountability for “protecting and defending the Homeland.”⁵⁴ Acknowledging “America’s constitutional foundations of federalism and limited government,” the *National Strategy for Homeland Security* correctly identifies the critical role that state and local governments and emergency responders play and advocates that incidents be “handled at the lowest jurisdictional level possible.”⁵⁵ This affirmation has empowered response agencies to act by clarifying roles and responsibilities.

1. The National Response Framework

Perhaps the most prominent framework to arise after 9/11, and part of the *National Strategy for Homeland Security*, was the National Response Plan (NRP) in December 2004. The NRP, which was later replaced by the National Response Framework (NRF) in March 2008, built on the National Incident Management System (NIMS) and the Incident Command System (ICS) as a means of standardization and coordination. A central tenet of

⁵³ Homeland Security Council, 1.

⁵⁴ Homeland Security Council, 4.

⁵⁵ Homeland Security Council, 4, 33.

the NRF and NIMS is the concept of unity of effort, which “enables organizations with specific jurisdictional responsibilities to support each other while maintaining their own authorities.”⁵⁶ While not new concepts, these frameworks look to “coordinate activities among various organizations to achieve common objectives” through standardized “structures, terminology, processes, and resources.”⁵⁷ To codify the commitment to this unity of effort, HSPD-5, *Management of Domestic Incidents*, since 2003 has required all federal departments and agencies to adopt NIMS and incorporate it into their response posture.

2. JIATF-South

Another framework with proven results and often described as the “‘gold standard’ for interagency cooperation and intelligence fusion” is JIATF-South, headquartered in Miami, Florida.⁵⁸ As a task force, JIATF-South is a multiagency organization subordinate to the U.S. Southern Command’s combatant commander. Its explicit mission is to leverage “all-domain capabilities to target, detect and monitor illicit drug trafficking in the air and maritime domains, within the Joint Operating Area (JOA), facilitating interdiction and apprehension to reduce the flow of drugs and degrade and dismantle Transnational Criminal Organizations.”⁵⁹

As a counter-drug unit, JIATF-South can trace its roots to the war on drugs that began with the Nixon administration in the 1970s and expanded under Reagan in the 1980s. The amendment of the Posse Comitatus Act in 1981 allowed the DOD to support civilian law enforcement and the USCG to combat drug smuggling.⁶⁰ Historically, the Posse Comitatus Act, 18 U.S.C. § 1385, prohibited the use of DOD forces in civilian affairs.

⁵⁶ Department of Homeland Security, *National Incident Management System*, 3rd ed. (Washington, DC: Department of Homeland Security, 2017), 3, https://www.fema.gov/sites/default/files/2020-07/fema_nims_doctrine-2017.pdf.

⁵⁷ Department of Homeland Security, 3.

⁵⁸ Munsing and Lamb, *Joint Interagency Task Force–South*, 1.

⁵⁹ “About Us,” Joint Interagency Task Force South, accessed May 24, 2022, <https://www.jiatfs.southcom.mil/About-Us/>.

⁶⁰ Munsing and Lamb, *Joint Interagency Task Force–South*, 7–8.

Despite trepidation from officials within the DOD, the Reagan administration expanded military service in civilian law enforcement by permitting technical and support assistance.⁶¹ The amendment allowed military assets like facilities, vessels, and aircraft to house or transport law enforcement officers and even conduct surveillance but stopped short of permitting searches and seizures, arrests, or detentions.⁶² This expansion served as a force multiplier, allowing more significant numbers and flexibility to combat increasing drug smuggling ventures.

As drug violence erupted in South Florida in the early 1980s, the Vice President's Task Force on South Florida formed.⁶³ This new group cobbled together "hundreds of agents from the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI) and drew support from the Customs Service, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Internal Revenue Service (IRS), the Army, and the Navy."⁶⁴ This massive effort, focused solely on South Florida, served only to force smuggling efforts to other locations "along America's porous border."⁶⁵

The growing conviction that drug interdiction was not just a regional problem but a national security issue led the USG to approach new strategies for counternarcotics. This new approach bundled several innovations, "increasing military support for law enforcement agencies, centralizing authority for the war on drugs, and using a lead agency to coordinate U.S. Government efforts."⁶⁶ Under the lead agency model, the DOD became "the lead agency for the detection and monitoring of drug trafficking into the United States and the Coast Guard as the lead agency for the interdiction and arrest of drug traffickers."⁶⁷ This model created joint task forces that centralized detection, monitoring, and interdiction

⁶¹ Chad Thevenot, "The 'Militarization' of the Anti-Drug Effort," News Briefs, July 1997, <https://www.ndsn.org/july97/military.html>.

⁶² Thevenot.

⁶³ Munsing and Lamb, *Joint Interagency Task Force-South*, 8.

⁶⁴ Munsing and Lamb, 8.

⁶⁵ Munsing and Lamb, 8.

⁶⁶ Munsing and Lamb, 11.

⁶⁷ Munsing and Lamb, 9–11.

efforts, encouraging the DOD to work effectively with interagency partners.⁶⁸ The slow evolution of the counternarcotics mission, born of adaptation, necessity, politics, and growing and shrinking budgets, led to a whole-of-government approach that now includes international partners. JIATF-South incorporated operational and intelligence expertise across the federal catalog of law enforcement agencies, including the FBI, DEA, DOD, USCG, Central Intelligence Agency, and the DOJ, among other local law enforcement agencies.

Contributing to the success of JIATF-South, thus setting it apart from other groups doing similar operations, was its adoption of “an end-to-end” understanding of the mission.⁶⁹ This end-to-end problem management included tracking the entire drug smuggling process: “how bulk shipments were paid for in cash, stash areas, conveyances, off-loads and follow-on movements.”⁷⁰ It also had identifying networks and “followed the process until the smugglers were imprisoned, became informants, and began divulging intelligence that could lead to more interdictions and prosecutions.”⁷¹ By expanding beyond “detecting and monitoring,” the evolution of JIATF-South “broadened [the] understanding of the organization’s mission” to enhance operations.⁷² Most notable were the intelligence-driven operations, which not only led to more “successful prosecutions, more informers, [and] more intelligence on drug organizations” but also maximized the use of growingly scarce resources in the early years of the global war on terror.⁷³ JIATF-South successfully gathered resources from multiple agencies, including federal, international, and other organizations.⁷⁴

JIATF-South’s organization is structured with the unity of command, indicating a more military approach, with a single individual or command dictating direction to

⁶⁸ Munsing and Lamb, 11.

⁶⁹ Munsing and Lamb, 34.

⁷⁰ Munsing and Lamb, 30.

⁷¹ Munsing and Lamb, 30.

⁷² Munsing and Lamb, 34.

⁷³ Munsing and Lamb, 34–35.

⁷⁴ Munsing and Lamb, 37.

subordinates.⁷⁵ While the structure may dictate the unity-of-command approach, Munsing and Lamb’s analysis of JIATF-South shows that “it would be more accurate to say it achieves unity of effort without unified command.”⁷⁶ This statement implies that the structure allows participating organizations to retain some of their identity while functioning at the direction of a single commander.

3. Observations from the NRF and JIATF-South Models

Both the NRF and JIATF-South are current examples of functioning interagency frameworks. The most notable difference is that the NRF utilizes the unity of effort under a unified command. At the same time, JIATF-South directs assets, resources, and operations under a singular command, understanding the roles of lead agencies in specific mission areas. The NIMS ICS structure of the NRF requires standardization, which permits flexibility and application over a broad range of threats and mission profiles. In contrast, JIATF-South remains singularly focused on counternarcotics, whereby a more direct task assignment approach captures operational legitimacy “into a strong interagency sense of purpose.”⁷⁷ This section identified two examples of new policies and procedures that grew in response to evolving threats.

C. INTERAGENCY CHALLENGES

Several factors determine whether interagency efforts will successfully achieve a common goal. The JCS’s *Joint Vision 2020* states, “The primary challenge of interagency operations is to achieve unity of effort despite the diverse cultures, competing interests, and differing priorities of the participating organizations, many of whom guard their relative independence, freedom of action, and impartiality.”⁷⁸ As may be the case in competing interests, these roadblocks may be self-imposed as departments and agencies seek to protect interests that may entitle them to limited resources or budgets. Other

⁷⁵ Munsing and Lamb, 77.

⁷⁶ Munsing and Lamb, 77.

⁷⁷ Munsing and Lamb, 79.

⁷⁸ Joint Chiefs of Staff, *Joint Vision 2020*, 18.

obstructions may come from institutional norms or policies restricting information sharing or collaboration. For example, *Joint Vision 2020* reveals that “organizations may lack the structure and resources to support extensive liaison cells or integrative technology.”⁷⁹

“Sharing and integrating national security information across agencies” has long been a challenge for security professionals.⁸⁰ A Government Accountability Office (GAO) study cited “a lack of clear guidelines for sharing information with other agencies and security clearance issues,” as well as “incorporating information drawn from multiple sources,” as contributing factors to this challenge.⁸¹ Additionally, many task forces or working groups are “limited in authority, narrow in scope, and viewed with suspicion by most governmental entities,” contributing to these intelligence stovepipes.⁸² To illustrate this problem, Bogdanos explains that “on September 11, the United States had at least five different lists of its most wanted terrorists.”⁸³

This ability to share information and intelligence is the cornerstone of effective interagency results, the failure of which can have dire consequences. For example, the 9/11 Commission revealed that “the government’s single greatest failure preceding the September 11, 2001, attacks was the inability of federal agencies to effectively share information about suspected terrorists and their activities.”⁸⁴ The GAO further reports “sharing and integrating national security information among federal, state, local and private-sector partners is critical to assessing and responding to current threats to our national security.”⁸⁵ Essential to the success of any interagency collaborative effort or requirement, such as securing critical infrastructure using a whole-of-government approach, is the ability to communicate and share intelligence and information. In some

⁷⁹ Joint Chiefs of Staff, 18.

⁸⁰ St. Laurent and Williams-Bridgers, *Interagency Collaboration*, 6.

⁸¹ St. Laurent and Williams-Bridgers, 6.

⁸² Bogdanos, “Joint Interagency Cooperation,” 11.

⁸³ Bogdanos, 11.

⁸⁴ St. Laurent and Williams-Bridgers, *Interagency Collaboration*, 45.

⁸⁵ St. Laurent and Williams-Bridgers, 45.

cases, this information sharing has been limited by members of committees or watch centers who do not have federal security clearances.

This gap was the case in the early 2000s with the newly formed Area Maritime Security Committee (AMSC), an authority provided to the USCG under the Maritime Transportation Security Act, another post-9/11 law.⁸⁶ AMSCs were intended to fill a communications gap and include representatives from the federal, state, local, and private sectors “as a way to identify and deal with vulnerabilities in and around ports, as well as to provide a forum for sharing information on issues related to port security.”⁸⁷ Most information regarding specific port vulnerabilities is “classified national security information and cannot be released, even to law enforcement personnel, if they have not undergone the necessary federal background checks and received a security clearance.”⁸⁸ This barrier prevented nonfederal officials from accessing this vital operational information, putting them at a disadvantage in “respond [ing] to or combat [ing] a terrorist threat.”⁸⁹ At the time, the USCG “did not clearly understand [its] responsibility for communicating with state and local officials about the process for obtaining a security clearance” and had “not developed formal procedures for using its database on security clearance applicants to troubleshoot potential problems and take appropriate management action.”⁹⁰

Regarding interagency collaboration, it is not uncommon for the aforementioned information stovepipes to give rise to other roadblocks. The GAO recognized the growing need to “incorporate desirable characteristics of national strategies” and “take actions to create collaborative organizations,” such as “clarifying guidelines for sharing national

⁸⁶ Margaret T. Wrightson, *Maritime Security: New Structures Have Improved Information Sharing, but Security Clearance Processing Requires Further Attention*, GAO-05-394 (Washington, DC: Government Accountability Office, 2005), 6, <https://www.gao.gov/assets/gao-05-394.pdf>.

⁸⁷ Wrightson, 2.

⁸⁸ Wrightson, 2.

⁸⁹ Wrightson, 2.

⁹⁰ Wrightson, 5.

security information.”⁹¹ This report identified several roadblocks to developing interagency strategies and “enhancing collaboration for national security.”⁹²

A common downfall for cohesive and productive partnerships, directly related to this concept of information sharing, is a lack of an overall strategy that defines roles and responsibilities or coordinating mechanisms that help participating organizations identify lead and supporting positions.⁹³ Without a common strategy or central planning component to coordinate efforts, interagency partners may take it upon themselves to work within their processes, perhaps doubling efforts or potentially hindering the work of other agencies.

Also challenging unified action, “various USG departments and agencies often have different, and sometimes conflicting legal authority, policies, procedures, and decision-making techniques.”⁹⁴ Further, USG departments and agencies are designed and congressionally funded to function by performing core tasks established in legislation.⁹⁵ It is feasible, therefore, that in executing interagency cooperation, an organization finds itself constrained by its enabling legislation—the legal permission to do something—and “the availability of funding to perform those activities permitted under the enabling legislation.”⁹⁶

The complexities of governments and the structures, frameworks, and policies they create complicate coordination between the departments and agencies that carry out the work of those governments. Each department or agency executes its mission, often producing differing interests and misaligned priorities when trying to reach a common goal. Further, government organizations may compete for resources or funding and lack the resources necessary to collaborate. For example, an agency may not have the personnel to

⁹¹ St. Laurent and Williams-Bridgers, *Interagency Collaboration*, 1.

⁹² St. Laurent and Williams-Bridgers, 1.

⁹³ St. Laurent and Williams-Bridgers, 1.

⁹⁴ Joint Chiefs of Staff, *Interorganizational Cooperation*, I–10.

⁹⁵ Joint Chiefs of Staff, I–14.

⁹⁶ Joint Chiefs of Staff, I–14.

staff an interagency command post or liaison position. Successful collaborative efforts recognize and capitalize on their components' diverse cultures, structures, resources, and legal authorities. Interagency groups need to share the necessary information to make cogent decisions together to succeed.

D. INTERAGENCY SUCCESS: NATIONAL SECURITY COUNCIL

This section offers a counterbalance to the previous section by identifying a system that routinely overcomes the aforementioned challenges. The NSC makes decisions at the top level of the USG through a straightforward process that impacts organizations across the federal government. The Congressional Research Service reports, "The NSC was created to integrate domestic, foreign, and military policies related to national security, and to facilitate cooperation among the military services and other government departments and agencies in matters of national security."⁹⁷ What follows is a description of the NSC and its framework for coordinating national security decisions.

The NSC was established with the National Security Act of 1947 to provide whole-of-government coordination "with respect to integration of domestic, foreign, and military policies relating to national security."⁹⁸ In February 2001, the Bush administration issued NSPD-1, *Organization of the National Security Council System*, which reorganized the NSC and established a three-tiered system for implementing effective national security policies.⁹⁹ The three levels consist of the Principals Committee (PC), the Deputies Committee (DC), and multiple Policy Coordination Committees, now called Interagency Policy Committees (IPCs). Under the legal authority of the U.S. Code (50 U.S.C. § 3021), the NSC maintains four essential functions: 1) advising the president on policies relating to national security that enable cooperation between USG agencies, 2) assessing objectives concerning military power of the United States, 3) making recommendations concerning

⁹⁷ Kathleen J. McInnis and John W. Rollins, *The National Security Council: Background and Issues for Congress*, CRS Report No. R44828 (Washington, DC: Congressional Research Service, 2021), 1, <https://crsreports.congress.gov/product/pdf/R/R44828>.

⁹⁸ Bush, *Organization of the National Security Council System*, 2.

⁹⁹ Cody M. Brown, *National Security Council: A Legal History of the President's Most Powerful Advisers* (Washington, DC: Project on National Security Reform, 2008), 72, <https://www.hsdl.org/?abstract&did=37479>.

policies of common interest to federal departments and agencies, and 4) coordinating the USG's response to foreign influence.¹⁰⁰

At the top of the hierarchy, the PC serves as “the senior interagency forum for consideration of policy issues affecting national security” and, as the name implies, consists of senior cabinet-level officials chaired by the national security advisor.¹⁰¹ At the next level, the DC, subordinate to the PC, consists of sub-cabinet-level interagency partners made up of deputy secretaries or undersecretaries. The DC plays a critical role in considering “policy issues affecting national security,” prescribing and reviewing “the work of the IPCs,” and ensuring “that issues being brought before the PC or NSC have been properly analyzed and prepared for decision.”¹⁰² Subordinate to the DC, IPCs at the next level down in the NSC structure “provide the main day-to-day fora for interagency coordination of national security policy that ensure timely responses to decisions made by the President.”¹⁰³ IPCs are interagency committees typically consisting of “representatives from the executive departments, offices, and agencies represented in the DC.”¹⁰⁴ IPCs are noteworthy in this thesis as they involve the most interagency coordination in the NSC system.¹⁰⁵ IPCs “are responsible for managing the development and implementation of national security policies when they involve more than one government agency.”¹⁰⁶

IPCs are broken into regional and functional groups that expand or contract with presidential priorities and national security needs. As their name implies, regional groups encompass policy issues pertaining to particular geographic areas (e.g., Europe and Eurasia, Western Hemisphere, or Iraq) where the DOS is heavily involved and, in most

¹⁰⁰ National Security Council, 50 U.S.C. § 3021 (2021), <https://www.law.cornell.edu/uscode/text/50/3021>.

¹⁰¹ Bush, *Organization of the National Security Council System*, 3.

¹⁰² Bush, 4.

¹⁰³ Department of Defense, *Joint Guide for Interagency Doctrine*, II-1.

¹⁰⁴ Bush, *Organization of the National Security Council System*, 5.

¹⁰⁵ Alan G. Whittaker et al., *The National Security Policy Process: The National Security Council and Interagency System* (Washington, DC: National Defense University, 2011), 17, <https://apps.dtic.mil/sti/citations/ADA502949>.

¹⁰⁶ Whittaker et al., 17.

cases, chairs these committees.¹⁰⁷ Functional groups or topics inform policy decisions related to activities and operations or other issues related to national security (e.g., arms control, global environment, intelligence and counterintelligence, or maritime security).¹⁰⁸ Undersecretaries or assistant secretaries often chair these groups, and participants include those with functional expertise.¹⁰⁹

Unlike departmental or agency planning, which tends to focus only on an organization's objectives, an IPC maintains a broader scope at the political or strategic level.¹¹⁰ IPCs analyze policy issues, supporting a range of recommendations and options provided to policymakers through the DC, the PC, and the president. As most policy issues affect multiple departments and agencies, these interagency groups need to develop policies that “advance U.S. interests through coordinated actions” and synchronize efforts to coalesce around a desired national outcome.¹¹¹ The nature of bringing disparate groups together often means there are policy disagreements and other hindrances to achieving the unity of effort and consensus. Given the broad scope of IPCs, disputes arise “because of divergent political philosophies, different departmental objectives and priorities, disagreements about the dynamics or implications of developing situations, or because departments are seeking to evolve or formulate new roles and missions.”¹¹² When disagreements occur or personalities clash, issues are frequently passed up to the DC for conflict resolution and further still to the PC if necessary.¹¹³

When analyzing policy proposals, the IPCs consider several complex issues, including the “compelling necessity for action,” the long-term impacts of policy commitments, and legal authorities.¹¹⁴ The Maritime Security IPC (MSIPC) frequently

¹⁰⁷ Whittaker et al., 17–19.

¹⁰⁸ Whittaker et al., 17–18.

¹⁰⁹ Whittaker et al., 19.

¹¹⁰ Whittaker et al., 34.

¹¹¹ Whittaker et al., 34.

¹¹² Whittaker et al., 34.

¹¹³ Whittaker et al., 34.

¹¹⁴ Whittaker et al., 37.

uses this strategy to develop new policy guidance for the interagency. For example, in 2019, it helped to update policies on interdicting migrants at sea in the Caribbean Region. Following the strategic goals of the USG, lawyers and policy experts from the DHS, DOD, DOS, and DOJ convened several times to develop new guidance for implementation.

The NSC and the IPCs offer an excellent example of interagency coordination in pursuit of policymaking toward a desired nation outcome. A distinctive characteristic that helps the NSC conduct business is its flexibility in resolving conflicts at increasing levels of the federal hierarchy, beginning with the deputy secretaries and undersecretaries in the DC and elevated to the secretary levels of the PC if the conflict remains unresolved.

The notional concept of the NSC is to advise the president, who has the “latitude to structure and use the NSC as they see fit.”¹¹⁵ In practice, however, many NSC personnel now execute policies through response coordination as the whole-of-government and international security environments grow more complex.¹¹⁶ For example, during the George H. W. Bush administration, “the NSC worked effectively in facilitating a series of American foreign policy successes,” including coordinating whole-of-government responses “through the collapse of the USSR and the unification of Germany, Operation Just Cause which sent American troops into Panama in December 1989, and Operation Desert Shield and Desert Storm.”¹¹⁷ The subsequent Clinton administration continued to utilize the NSC to advise and deal with conflicts in Bosnia, Haiti, Iraq, and Somalia, in addition to issues related to “illegal drugs, United Nations peacekeeping, Zaire strategic arms control policy, China, and global environmental affairs.”¹¹⁸

Throughout the history of the NSC, presidents have used it in various ways to contribute to decisions and implement national security policy. Because the NSC is part of the president’s Executive Office, “Congress’ role in NSC matters and its relationship with

¹¹⁵ McInnis and Rollins, *The National Security Council*, 9.

¹¹⁶ McInnis and Rollins, 9.

¹¹⁷ “History of the National Security Council, 1947–1997,” White House of President George W. Bush, August 1997, <https://georgewbush-whitehouse.archives.gov/nsc/history.html>.

¹¹⁸ White House of President George W. Bush.

the NSC are limited.”¹¹⁹ This autonomy offers the president the flexibility to use discretion involving the NSC. As a result, the NSC is accountable to and takes direction from the president, following the administration’s priorities and interests of the United States. This accountability to the president compels departments and agencies to find collaborative solutions to complex issues in this capacity. The three-tiered system of the NSC has been effective, notably at the DC level, because it comprises “a small group of people senior enough to get things done” and able to commit to their views and decisions.¹²⁰ Collectively, the components within the NSC have agreed (by way of presidential direction) to collaborate to make decisions, guiding and creating policy where there is mutual interest to do so. The ultimate result is a desirable, strategic, national, whole-of-government outcome.

E. CONCLUSION

This chapter examined the growing need for government organizations to work together following lessons learned from 9/11. Understanding that this type of collaboration is complicated, the NRF and JIATF-South models provide two different approaches, most notably a unity-of-effort model in the NRF and a unity-of-command model in JIATF-South. The NSC—which pre-exists 9/11, the NRF, and JIATF-South—executes interagency coordination in some unique ways, most notably, through a tiered system that promotes conflict resolution; accountability to the president, thus mandating collaboration; and strategic goals and policies that produce a desired national outcome. These characteristics reappear in later chapters with the examination of the MOTR Plan.

¹¹⁹ McInnis and Rollins, *The National Security Council*, 10.

¹²⁰ Brown, *National Security Council*, 75.

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III. INTRODUCING THE MOTR PLAN

The growing need for collaborative mechanisms to respond to the modern threat landscape is unavoidable. Creating collaborative teams is not always easy, and there can be roadblocks. The NSC offers just one example of how the interagency can work together to achieve a common goal. With many similarities to the NSC model, the MOTR Plan was developed to coordinate a federal response to threats in the maritime domain. This chapter describes the MOTR Plan and the interagency effort to shape it into a usable framework.

A. SIMAS KUDIRKA CASE

As with many successful ideas, endeavors, and practices, the MOTR Plan was born of failure. The 1970s case of Simas Kudirka, a Lithuanian fisherman, highlights many of the challenges in the maritime domain and indicates why the domain needs a plan for interagency coordination. This section presents a case study of USG agencies' failure and need to work collaboratively, thus signaling the origin of interagency cooperation in the maritime domain. The details of the case, except where noted, were adapted from hearings before the Subcommittee on State Department Organization and Foreign Operations of the House Committee on Foreign Affairs in December 1970 and the subsequent report from those hearings, published in February 1971.¹²¹

On a brisk November afternoon in 1970, the USCG cutter *Vigilant* approached the Soviet fishing vessel *Sovetskaya Litva* anchored in U.S. waters off the coast of Martha's Vineyard, Massachusetts.¹²² By pre-arrangement, the two vessels moored together "to discuss arrangements that might be undertaken, consistent with existing fishing agreements between the two countries, to prevent the depletion of certain stocks of fish."¹²³ Before the

¹²¹ *Attempted Defection by Lithuanian Seaman Simas Kudirka: Hearing Before the Subcommittee on State Department Organization and Foreign Operations of the Committee on Foreign Affairs, House of Representatives 91st Cong., 2nd sess., December 3, 1970*, ProQuest; U.S. House of Representatives, *Attempted Defection by Lithuanian Seaman Simas Kudirka: Report of the Subcommittee on State Department Organization and Foreign Affairs*, CMP-1971-FOA-0004 (Washington, DC: Government Printing Office, 1971), ProQuest.

¹²² H.R., *Attempted Defection: Hearing*, 8.

¹²³ H.R., 8.

establishment of exclusive economic zones (EEZ), meetings “between representatives of the U.S. fishing industry and the Soviet fishing fleet operating in the Atlantic off southern New England” were not uncommon.¹²⁴ This meeting was “in connection with an agreement that [the United States] . . . struck under the International Commission for the North Atlantic Fisheries, under which a quota on yellowtail flounder catches [would] be imposed.”¹²⁵ In addition to the ship’s company, *Vigilant* had five civilians aboard, including three from the U.S. fishing industry and two from the Department of Commerce’s National Marine Fisheries Service.¹²⁶

With the Cold War freezing relations and heating tensions between the United States and Russia, Simas Kudirka, a Lithuanian merchant seaman, was about to complicate things for the United States. While the captain of *Vigilant* and the U.S. fisheries’ delegation were aboard the Russian fishing boat discussing fishing arrangements, Mr. Kudirka indicated to members of *Vigilant*’s crew that he might attempt to defect.¹²⁷ Having been made aware of the exigent nature of the situation, *Vigilant*’s executive officer (XO) grew understandably uneasy. Just before 1:00 p.m., and realizing the potential complications, the XO raised concerns to his superiors at the USCG’s district office in Boston.¹²⁸ Seeking advice and explaining the details, he expressed in brief, “If escape is undetected plan to recall entire delegation under false pretense and depart. If escape detected foresee major problems if delegation still aboard.”¹²⁹

At the time, the district commander was outside the chain of command, at home on convalescent leave following an operation, placing his chief of staff in command as the acting district commander.¹³⁰ Like the XO onboard *Vigilant*, the acting district commander recognized the situation for what it was and also sought advice. Not long after receiving

¹²⁴ H.R., 8.

¹²⁵ H.R., 167.

¹²⁶ H.R., *Attempted Defection: Report*, 2.

¹²⁷ H.R., 2.

¹²⁸ H.R., 2.

¹²⁹ H.R., 2.

¹³⁰ H.R., 3.

the message from *Vigilant*, the district office relayed the news to USCG Headquarters in Washington, DC, and to the DOS.¹³¹ While there was strong interest in Washington for frequent updates on the situation, “no one gave sustained attention to the possible complexities of the problem and alternative courses of action.”¹³²

A series of inaccurate assumptions and communication breakdowns precipitated the disastrous decisions of the incident. The first assumption was that Mr. Kudirka would defect by jumping in the water and would, therefore, be in distress, requiring rescue, either by the Soviets or the crew of the *Vigilant*.¹³³ The second assumption, mainly held by the DOS, was that if the crew of the *Vigilant* recovered Mr. Kudirka, the USCG would know that he should not be returned to the Soviets.¹³⁴ The third assumption was that notifications to USCG Headquarters and the DOS would be made when Mr. Kudirka made it aboard *Vigilant*, after which they could offer detailed guidance.¹³⁵ The fourth assumption was that officials at USCG Headquarters were having regular discussions concerning the matter with DOS officials.¹³⁶

Exacerbating the problem, “oral and written communications that might have clarified or amplified the situation lacked precision or completeness. Even the communications equipment proved unreliable.”¹³⁷ Despite the confusion surrounding the event, “no one in authority thought to give the simplest of all advice: Do not return the defector until Headquarters directs.”¹³⁸ Even in the two conversations between USCG Headquarters and DOS’s Office of Soviet Union Affairs, “the one helpful piece of guidance

¹³¹ H.R., 3.

¹³² H.R., 2.

¹³³ H.R., 3–10.

¹³⁴ H.R., 3–10.

¹³⁵ H.R., 3–10.

¹³⁶ H.R., 3–10.

¹³⁷ H.R., 2.

¹³⁸ H.R., 2.

that State could have supplied—keep the defector until the Department advised—never emerged in the conversations.”¹³⁹

After consulting with his legal staff, the acting district commander instinctually thought that “if we get him [the defector], we should keep him, bring him in and turn him over to State or Immigration,” but this message was never relayed to the *Vigilant* or to USCG Headquarters.¹⁴⁰ While waiting to hear guidance from USCG Headquarters, the acting district commander called his boss to brief him.¹⁴¹ This exchange and subsequent ones transitioned from the acting district commander’s briefing, to his boss’s repeated urgings, to instructions from the district commander to his subordinate.¹⁴² Despite the acting district commander’s instinct, previous legal advice, and personal objections to his boss, the acting district commander directed *Vigilant* to give the Russians the opportunity to recover the defector if he jumped in the water first, save him if necessary, and “give him back” if that were the case.¹⁴³ This message was transmitted to *Vigilant* at 1:30 p.m. but was not received until 3:36 p.m.¹⁴⁴

While all of these discussions occurred behind the scenes, Kudirka conveyed to the crew of the *Vigilant* that he intended to defect later in the day when the two ships unmoored from one another.¹⁴⁵ This message was passed by *Vigilant* to the district office in Boston; however, it did not reach its destination until much later in the evening.¹⁴⁶ Meanwhile, as the workday was ending in the offices ashore, there was a common belief that “since it was getting dark, the possibility of a defection [had] reduced.”¹⁴⁷ With no new information,

¹³⁹ H.R., 2.

¹⁴⁰ H.R., 2.

¹⁴¹ H.R., 3.

¹⁴² H.R., 4.

¹⁴³ H.R., 3–4.

¹⁴⁴ H.R., 4.

¹⁴⁵ H.R., 4.

¹⁴⁶ H.R., 4.

¹⁴⁷ H.R., 4.

many of the USCG Headquarters and DOS personnel left for the day without issuing instructions to anyone about possible courses of action.¹⁴⁸

In dramatic fashion, Kudirka jumped from the *Sovetskaya Litva* onto the *Vigilant*, landing hard on the deck, at 4:20 p.m.¹⁴⁹ Unclear on what to do, the captain of the *Vigilant* unsuccessfully reached out to the acting district commander, only to find out he could not be reached.¹⁵⁰ Desperate for direction, the captain called the convalescing district commander, who advised *Vigilant*'s captain that the Soviets should be informed so as not to foul "up any of our arrangements as far as the fishing situation is concerned," adding that "if they choose to do nothing, keep him on board, otherwise put him back."¹⁵¹ Given the district commander's leave status, he was not technically in the chain of command at the time he issued those orders.

Kudirka, fearing for his life, was determined not to return to the Soviet vessel, and *Vigilant*'s skipper pressed this issue with his superiors, expressing that he believed Kudirka's life was in jeopardy.¹⁵² Unconvinced and seemingly unfamiliar "with recent Soviet actions" and "appalling ignorance about basic American history as well as current international events," the district commander did not believe Kudirka's life was at risk.¹⁵³ Doubling down, he relayed that the Soviets should be informed that a member of their crew was onboard *Vigilant* and have them submit a formal written request to have the crewman returned to them.¹⁵⁴ After receiving the formal request from the Soviet captain, *Vigilant*'s captain had difficulty carrying out these orders "because of Kudirka's refusal to return voluntarily."¹⁵⁵ The information between the district office and both USCG Headquarters

¹⁴⁸ H.R., 4.

¹⁴⁹ H.R., 4.

¹⁵⁰ H.R., 4.

¹⁵¹ H.R., 5.

¹⁵² H.R., 5.

¹⁵³ H.R., 5–6.

¹⁵⁴ H.R., 5.

¹⁵⁵ H.R., 6.

and the DOS was incomplete, imprecise, and misleading “in that it conveyed the idea that Kudirka had been, or was in the immediate process of being, returned.”¹⁵⁶

Kudirka, now onboard *Vigilant* for several hours, could not be convinced to return to the Soviet vessel and expressed he would not go voluntarily.¹⁵⁷ A few of the civilian members of the U.S. fishing delegation engaged with Kudirka to convince him to go back; meanwhile, the fleet commander from the Soviet delegation had boarded the *Vigilant* with the intention of not leaving without the defector.¹⁵⁸ One of the civilians from the Department of Commerce acting as a translator urged the captain to call the DOS and even the secretary of state to get clarity and guidance.¹⁵⁹ The tension on *Vigilant* was palpable. Again, *Vigilant*’s captain sought advice from his superiors in Boston, to which the acting district commander replied, “You have your orders. You have no discretion. Use whatever force is necessary. Do not let any incident occur.”¹⁶⁰ Not wanting to use his crew to force Kudirka off, the captain allowed five Soviet crew members to board *Vigilant*.¹⁶¹ Evading capture, Kudirka was pursued around the decks of *Vigilant* and ultimately cornered, beaten, tied up in a blanket, and brought aboard *Sovetskaya Litva*.¹⁶²

News of the incident ignited a political firestorm for the USCG and DOS.¹⁶³ Hearings before the House Subcommittee on State Department Organization and Foreign Operations convened aggressively in December, immediately following the event.¹⁶⁴ The hearings found that the USCG and DOS had made many bad decisions, that both “had a casual attitude about the situation,” and that “a detailed knowledge of all the circumstances

¹⁵⁶ H.R., 7.

¹⁵⁷ H.R., 6.

¹⁵⁸ H.R., *Attempted Defection: Hearing*, 160.

¹⁵⁹ H.R., 160.

¹⁶⁰ H.R., *Attempted Defection: Report*, 7.

¹⁶¹ H.R., 7–8.

¹⁶² H.R., 8.

¹⁶³ H.R., 8.

¹⁶⁴ H.R., *Attempted Defection: Hearing*.

was not immediately necessary to state a basic principle of U.S. foreign policy.”¹⁶⁵ The district commander and the acting district commander both testified that there had been absolutely no guidance from USCG Headquarters about what to do with a defector, and they had been forced to make judgments and decisions in a vacuum.¹⁶⁶ At the time, there were protocols for dealing with migrants and asylum seekers from Cuba, but no guidance had been provided for regions farther north.¹⁶⁷ The hearings also found critical gaps in communication: there were limited discussions between the district office and USCG Headquarters and almost no discussions between the USCG and DOS.¹⁶⁸

Mr. Kudirka was eventually returned to the Soviet Union, where he was imprisoned in a camp in Siberia.¹⁶⁹ The event and decisions made were seen as disastrous for the USCG and DOS, playing out publicly in the news, including several political cartoons like the one in Figure 1. At that time, a well-defined and responsive interagency coordination process to oversee incidents with international implications did not exist. Without coordinated national-level guidance, a field-level decision had been made to return Kudirka to the Soviets.

¹⁶⁵ H.R., *Attempted Defection: Report*, 10.

¹⁶⁶ H.R., *Attempted Defection: Hearing*, 180.

¹⁶⁷ H.R., 80.

¹⁶⁸ H.R., 65.

¹⁶⁹ Benjamin Weiser, “A New Country and a New Courtroom,” *Washington Post*, September 15, 1980, <https://www.washingtonpost.com/archive/politics/1980/09/15/a-new-country-and-a-new-courtroom/9aefc300-2cf3-4d1d-8788-c947245c31a4/>.



Figure 1. Editorial Cartoon during the Kudirka Incident.¹⁷⁰

The event drew international attention and scorn and became front-page news in the United States. The secretary of transportation, who oversaw the USCG at the time, submitted a memorandum to the president of the United States through the House Committee conducting the hearings on the incident. It contained “a preliminary review of written memoranda, messages, logs and telephone conversations” in addition to “conclusions and actions taken.”¹⁷¹ The secretary of transportation concluded that the DOS had not furnished the USCG with “general policy with regard to defectors,” so the USCG did not confer with DOS colleagues for specific guidance or notify the DOS of the situation in a timely manner.¹⁷² Additionally, there had been an “inadequate understanding between the State Department and Coast Guard on the most effective channels for communications with the DOS on refugee and defector cases.”¹⁷³

¹⁷⁰ Source: Gib Crockett, “Kudirka Editorial Cartoon,” *New York Times*, accessed July 31, 2022, <https://media.defense.gov/2017/Feb/02/2001693785/-1/-1/0/170202-G-XX000-0001.JPG>.

¹⁷¹ H.R., *Attempted Defection: Hearing*, 205–8.

¹⁷² H.R., 208.

¹⁷³ H.R., 208.

To resolve this issue, the secretary of transportation proposed that the Department of Transportation (DOT) take immediate steps “to establish a direct communication link between the operations center of Coast Guard Headquarters and the operations center of the DOS so as to assure appropriate contact . . . at any time of the day or night.”¹⁷⁴ While these measures were taken internally between the DOS and USCG, no formal federal mandate charged these organizations with working together. The scars of the incident compelled the two organizations to work together, but something more binding was needed to codify their collaboration to prevent a similar situation in the future.

The events that unfolded during the attempted defection of Simas Kudirka highlighted some of the communication challenges and political sensitivity associated with the maritime domain. Additionally, the federal government learned that the lack of information sharing and the inability to coordinate action had dreadful consequences for Kudirka, the USCG and DOS, and the trust and confidence of American citizens in their government. These events were not in vain, however. The section moves the discussion from the mistakes and lessons from the Simas Kudirka case to better policies, relationships, and mechanisms, which eventually created the MOTR Plan.

B. PRESIDENTIAL DIRECTIVE 27

The Kudirka case raised many issues and identified significant gaps in how federal agencies, specifically the DOS and USCG, interact with one another. As a result, lawmakers sought a way to compel agencies to work together. Through presidential direction, the Carter administration mandated interagency coordination eight years after the Kudirka incident. What follows is a description of the evolution from internal cooperation agreements to formal recognition of those agreements.

The mishandling of Kudirka’s defection led to the creation of PD-27 in 1978. The USCG and DOS had failed to communicate effectively and never defined a desired national outcome. PD-27 established a means for “dealing with various types of non-military incidents which could have an adverse impact upon the conduct of U.S. foreign

¹⁷⁴ H.R., 208.

relations.”¹⁷⁵ This directive involved 13 federal departments and agencies, not solely the USCG and DOS, and was designed for use by any government agency that might have non-military engagement with a foreign nexus.

PD-27 was established to ensure “that the government’s decisions were reached expeditiously and that views of all concerned departments and agencies, as well as considerations of both domestic law and foreign policy, are brought together in reaching a decision.”¹⁷⁶ It mandated that all agencies maintain a supervised 24-hour watch to communicate with the DOS Operations Center on developing or ongoing incidents that might affect relations with foreign powers.¹⁷⁷ The directive also introduced the concept of conflict resolution when parties disagree about how to handle an incident. The DOS Operations Center must gather the “interagency differences and the considerations on which they are based” and then “refer to the White House for a final decision [on the] recommendations.”¹⁷⁸ Another critical component found in PD-27 that eventually carried over to the MOTR Plan was interagency coordination in developing public statements.¹⁷⁹ This idea of speaking in a unified voice with a common message was a direct result of the press fallout after the Kudirka incident. Notably, PD-27’s implementation closely resembled that of the modern MOTR Plan.

The PD-27 process was commonly used during drug interdiction cases, whereby the USCG or an allied ship with USCG law enforcement officers on board would stop a suspected drug smuggling boat in international waters. Often, the master or person in charge of the suspect boat would claim a flag state—but not always. Regardless, to take any enforcement action, the USCG would have to “contact and inform the relevant agencies through the State Department,” the DOS and DOJ in this case.¹⁸⁰ In a conference call, the USCG would brief these agencies on the details of the case and request

¹⁷⁵ Brzezinski, *Procedures for Dealing with Non-Military Incidents*, 1.

¹⁷⁶ Brzezinski, 1.

¹⁷⁷ Brzezinski, 2.

¹⁷⁸ Brzezinski, 2.

¹⁷⁹ Brzezinski, 2.

¹⁸⁰ Tomasulo, “Evolution of Interagency Cooperation,” 40.

“interagency approval of its proposed course of action.”¹⁸¹ Here, the USCG would propose boarding the suspect vessel and request diplomatic assistance from DOS to engage with the flag state and legal or logistic assistance from DOJ to prosecute the case if drugs were discovered.¹⁸²

While PD-27 mandated an interagency consultation, a cornerstone of today’s MOTR process, it was not perfect and had several shortcomings. For example, it was vague in its direction and included only select USG agencies, so it did not truly span the whole of government and lacked comparable procedures for domestic maritime events.¹⁸³ Moreover, there were clear triggers to initiate the PD-27 process, but it “did not clearly define what incidents qualified as having an adverse impact upon the conduct of foreign relations.”¹⁸⁴ This meant that defining the impact was subjective and left the tactical unit responding to the incident to decide what the national impact of the situation might be.

Not every scenario might be as clear as the Kudirka case, so there was still room to misinterpret the situation, which could lead to outcomes like those for Kudirka. Additionally, while not restricted to maritime events, the PD-27 process was used almost exclusively in that capacity and only by a limited number of agencies; not everyone in the USG was using the process or even aware of it in practice.¹⁸⁵ According to Tomasulo, “By the time the MOTR Plan was developed, there were at least 15 national level federal operations centers that were involved in monitoring and planning maritime operational threat response [as outlined by PD-27]. But the work of these centers was not integrated and some of the centers were unaware of each other’s existence.”¹⁸⁶ The USCG and DOJ used the PD-27 framework extensively for over 25 years to coordinate high seas drug, migrant, and fishery interdictions. Despite its gaps, the PD-27 process was the only

¹⁸¹ Tomasulo, 40.

¹⁸² Tomasulo, 40.

¹⁸³ Tomasulo, 41.

¹⁸⁴ Tomasulo, 41.

¹⁸⁵ Tomasulo, 41.

¹⁸⁶ Tomasulo, 41.

mechanism available, so participating agencies—chiefly the USCG, DOS, DOJ, and the National Oceanic and Atmospheric Administration (NOAA)—made it work.¹⁸⁷

Increased globalization has contributed to the expansion of commerce and traffic and, consequently, threats in the maritime domain.¹⁸⁸ Also, examining homeland security through a post-9/11 lens has forced the USG to identify vulnerabilities, threats, and new threat vectors in the maritime domain.¹⁸⁹ The PD-27 process suited the needs of the time, in response to the crisis that gave birth to it, but required advancement and refinement to meet today’s threat environment.¹⁹⁰ In executing PD-27, the USG learned the value of broad and routine information sharing, but it did not go far enough in providing clear guidance, thus leaving room for agencies to interpret what might have an adverse impact on the foreign affairs of the United States.

C. REVISED POLICY

In the years after 9/11 and before the MOTR Plan was written, homeland security professionals recognized the challenge of protecting the maritime domain, particularly the ports and critical infrastructure in and around the nation’s most populated areas. In an environment where almost anything could be a threat from a seemingly endless number of places, establishing security protocols proved challenging. Security professionals needed a way to walk the line between providing effective security of appropriate size and scope while maintaining and facilitating commerce to keep economies running smoothly. In the hyper-alert, hyper-reactive years after 9/11, these efforts did not always go according to plan, as evidenced in a case dubbed “Lemon Gate” by the Argentine news media.¹⁹¹

¹⁸⁷ Tomasulo, 41.

¹⁸⁸ Tomasulo, 41.

¹⁸⁹ Tomasulo, 41.

¹⁹⁰ Tomasulo, 41.

¹⁹¹ Paul Blustein and Brian Rnes, “Lemons Caught in a Squeeze,” *Washington Post*, September 10, 2004, <https://www.washingtonpost.com/archive/business/2004/09/10/lemons-caught-in-a-squeeze/a829c2ff-abb3-4e81-98e5-e4a70eb812ff/>.

1. Lemon Gate

On July 30, 2004, an anonymous email was sent to the Department of Agriculture alleging that the motor vessel (M/V) *Rio Puelo*, a container ship inbound to the port of Elizabeth, New Jersey, carrying about one million Argentine lemons was laced with a biological agent.¹⁹² This was a first-of-its-kind event, and considering the potential terrorist threat, it triggered a cautious and aggressive response. The USCG stopped the vessel from coming into port and ordered it to hold 11 miles offshore until the cargo, vessel, and crew could be inspected and any threats mitigated.¹⁹³ Five containers of lemons, worth approximately \$70,000, were held, “frozen to dampen the spread of any potential toxins and examined to see whether they were leaking anything dangerous.”¹⁹⁴

While the tests results came back negative for any biological agents, CBP officials wanted to tow the ship to port for further inspection, a suggestion met with opposition from state and local officials who wanted to take no chances, believing there was something to the threatening email.¹⁹⁵ *Rio Puelo* and its “millions of dollars’ worth” of cargo, including the lemons, were kept out at sea for a week while “representatives of approximately 40 agencies at all levels of government, from the Department of Homeland Security to the Centers for Disease Control and the states of New York and New Jersey, were meeting and holding conference calls.”¹⁹⁶ During that week, the *Rio Puelo* was boarded and inspected by various “local, state, and national agencies that normally operate under separate chains of command” with little or no collective effort, often duplicating efforts.¹⁹⁷

¹⁹² Blustein and Rnes.

¹⁹³ Blustein and Rnes.

¹⁹⁴ Blustein and Rnes.

¹⁹⁵ Blustein and Rnes.

¹⁹⁶ Blustein and Rnes.

¹⁹⁷ Brian Wilson and Nora Johnson, “Bordering on Crisis: Overcoming Multiagency Crisis Coordination Challenges,” in *Crisis Lawyering: Effective Legal Advocacy in Emergency Situations*, ed. Ray Brescia and Eric Stern (New York: NYU Press, 2021), 269–89, <https://doi.org/10.18574/nyu/9781479801701.003.0013>.

Ultimately, *Rio Puelo* was allowed into port where the lemon containers and their contents were destroyed.¹⁹⁸ No biological agent was ever found, and the circumstances surrounding the anonymous email that embroiled *Rio Puelo* and its dangerous lemons were found to be suspicious.¹⁹⁹ It is believed that a quarrel between the buyer and seller of the lemons may have prompted the tip that caused the disruption.²⁰⁰

This case raised a few questions regarding the future of maritime security in the post-9/11 world, not the least of which was how effective the U.S. security system was if it could be activated to destroy legitimate commercial activity on the basis of an anonymous act of spite.²⁰¹ Additionally, *Rio Puelo* demonstrated that “our sensitivity to maritime security concerns . . . and our increased capability to respond quickly to perceived threats can be in itself a vulnerability.”²⁰² There had to be a better way.

2. Other Post-9/11 Developments

On a larger scale, the post-9/11 world created ambiguity between homeland defense and homeland security operations with the establishment of NORTHCOM in October 2002 and DHS in November 2002.²⁰³ There was a natural overlapping of roles and responsibilities known as the “seam of uncertainty” that did not clearly identify a single organization with “lead responsibilities over the other agencies across the range of response actions.”²⁰⁴ Several full-scale national-level exercises confirmed these overlapping roles and responsibilities where multiple departments claimed both jurisdiction and lead responsibility for a response.²⁰⁵ Such duplication of effort fostered disagreements and

¹⁹⁸ Blustein and Rnes, “Lemons Caught in a Squeeze.”

¹⁹⁹ Blustein and Rnes.

²⁰⁰ Blustein and Rnes.

²⁰¹ Jonathan Benner, “Maritime Security: Measuring Progress Three Years Out” (presentation, Prevention First, Long Beach, CA, September 15, 2004), 6, <https://www.slc.ca.gov/wp-content/uploads/2018/08/PF2004-OSPRGlobal-Maritime.pdf>.

²⁰² Benner, 6.

²⁰³ Tomasulo, “Evolution of Interagency Cooperation,” 43–44.

²⁰⁴ Tomasulo, 44.

²⁰⁵ Tomasulo, 45–46.

animosity and dampened any hope for cooperation between federal departments and agencies. This type of confusion contributed to the less-than-efficient response seen during the *Rio Puelo* incident.

As previously discussed, following 9/11, the USG undertook several efforts to expand its security posture with “the development of new agencies, legal authorities, directives, policies, and strategies.”²⁰⁶ Overlapping roles and responsibilities and disparate security strategies hastened national-level guidance, which produced, among other things, NSPD-41/NSPD-13 in December 2004.²⁰⁷ This directive established the Maritime Security Policy Coordinating Committee under the NSC “to coordinate interagency maritime security policy efforts” and drove the development of a comprehensive *National Strategy for Maritime Security*.²⁰⁸ The strategy called for the development of “eight supporting plans to address the specific threats and challenges of the maritime environment.”²⁰⁹ Included in the supporting plans was the MOTR Plan, which was drafted in 2005 and approved by the NSC in October 2006.

D. DEFINING THE MOTR PLAN

MOTR, the plan with the familiar-sounding name, is simple in concept. However, in practice, it is occasionally complex (with no right or good answers) and frequently complicated (relying on subject-matter experts); it is a plan, a process, and a framework. The simplicity of the plan is in its chief objective, as proposed by the 2005 *National Strategy for Maritime Security*: “to coordinate a United States Government response to threats against the United States and its interests in the maritime domain by establishing roles and responsibilities that enable the government to respond quickly and

²⁰⁶ Tomasulo, 43.

²⁰⁷ Tomasulo, 47.

²⁰⁸ Tomasulo, 43.

²⁰⁹ White House, *The National Strategy for Maritime Security*, ii.

decisively.”²¹⁰ More simply, the plan serves as “a federal interagency process to achieve coordinated action and desired national outcomes.”²¹¹

The plan’s complexity and complications lie in its integration of federal maritime policy and operational experts “to address security threats that involve multiple agencies that operate under different chains of command, with different authorities and different responsibilities.”²¹² Often, military, law enforcement, investigative, prosecutorial, and international components are associated with a maritime response that leaves any individual federal agency without the authority, capability, or capacity to address it completely on its own. Whenever more than one federal agency is substantively involved in response to a maritime threat, the MOTR Plan enables government agencies to work together effectively and coordinate actions by providing an agreed-upon framework.

Five triggers set the MOTR process into motion. While the details of those triggers remain “for official use only,” they build on the needs defined in PD-27 for protecting actions that might cause an “adverse impact upon the conduct of foreign relations.”²¹³ The triggers prompt coordinated activities among response agencies.²¹⁴ The presidentially approved MOTR Plan calls for compliance from specified participating federal agencies. Further, both the USCG and DOD codified their commitment to interagency cooperation with separate but similar policies mandating integration with partner agencies that adhere to the MOTR Plan.

The MOTR Plan requires coordination in the response to threats including maritime-related activities that negatively impact U.S. national security or foreign policy,

²¹⁰ White House, *The National Strategy for Maritime Security*, 27.

²¹¹ Gary L. Tomasulo Jr., “Evolution of Interagency Cooperation in the United States Government: The Maritime Operational Threat Response Plan” (master’s thesis, Massachusetts Institute of Technology, 2010), 3, <http://hdl.handle.net/1721.1/59157>.

²¹² Wilson and Johnson, “Bordering on Crisis,” 271.

²¹³ Zbigniew Brzezinski, *Procedures for Dealing with Non-Military Incidents*, Presidential Directive/NCS-27 (Washington, DC: White House, 1978), 2, <https://www.jimmycarterlibrary.gov/assets/documents/directives/pd27.pdf>.

²¹⁴ Tomasulo, “Evolution of Interagency Cooperation,” 49.

such as “drug trafficking, migrant interdiction, illegal fishing, and piracy.”²¹⁵ Since presidential approval in 2006, the MOTR Plan has guided federal agencies in identifying department roles, developing courses of action, and establishing desired national outcomes for the response and disposition of thousands of maritime threats.

MOTR conferences convene either in person, if time permits, but more typically in a virtual setting—by phone, a video teleconference (VTC), or if necessary, a secure VTC (SVTC)—during an actual coordinated interagency response to a maritime threat. The goal of every MOTR conference is to establish the facts of the case, identify courses of action, identify lead and supporting agency roles and responsibilities, and determine the desired national outcome, which ultimately requires concurrence from all participants. In the case of large-scale or prolonged responses, as in the hijacking of the *M/V Maersk Alabama*, described in Chapter V, subsequent MOTR conferences are convened to update all agency representatives and revise the desired national outcomes as the situation develops (see Figure 2).

²¹⁵ Wilson and Johnson, “Bordering on Crisis,” 271.



Figure 2. The U.S. MOTR Plan Process.²¹⁶

The MOTR Plan has proven applicable and valuable in various scenarios, and the process is reliable and repeatable for several reasons. The president of the United States mandates participation and information sharing, which goes a long way to encourage agencies to communicate when they otherwise would not. MOTR is not just a plan but a facilitated process that fosters deliberate coordination to develop optimal results. No one agency has authority over another, and MOTR installs a unity-of-effort model over a unity-of-command model. The MOTR Plan works because agencies are better off working together than acting alone and because it reinforces agencies' reliance on other organizations to exercise authority to accomplish a goal. For example, the DOJ may want to prosecute every drug smuggler in the world, but at least in the maritime domain, such

²¹⁶ Source: Department of Homeland Security, "Global MOTR Coordination Center."

action is only possible when the U.S. Navy or USCG interdicts smugglers and gather evidence.

The MOTR process brings a group of people together, bound by the rules and nuances of their respective agencies, and compels them to talk through a mutual problem. To avoid conflicts between agencies, the MOTR process follows a predictable, repeatable method for coordination: a briefing of the facts and a course of action, followed by a discussion of the roadblocks and challenges to the course of action, followed still by solutions.

The director of the GMCC, Mr. Scott Genovese, often refers to the MOTR Plan as “the plan when there is no plan,” meaning that MOTR does not replace or supplant a plan or process that already exists within a framework. An extreme example is in search and rescue, a well-known and pervasive mission in the maritime domain. Search and rescue (SAR) is as old as sea-going, with a long history both studied and well documented.²¹⁷ The field has lent itself to producing protocols and procedures for mission execution through national and international law and agreements, for example, those authored by the International Maritime Organization, which “provides guidelines for a common aviation and maritime approach to organizing and providing search and rescue services.”²¹⁸ There is no place for the MOTR Plan in SAR operations, whose codified standard operating procedures guide interagency coordination. Similarly, marine environmental and pollution response is well documented and well legislated, and its response actions are well coordinated, specifically through the ICS. When an oil spill occurs, large or small, a standard response follows a pre-existing plan housed at each USCG sector.

In the USCG hierarchy, a USCG sector has field-level operational control over a designated area of responsibility. For example, oil pollution in the coastal and offshore maritime domain is managed by one of the USCG’s 37 sectors. Each sector is required to

²¹⁷ “U.S. Coast Guard Office of Search and Rescue (CG-SAR),” U.S. Coast Guard, accessed August 3, 2022, <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Response-Policy-CG-5R/Office-of-Incident-Management-Preparedness-CG-5RI/US-Coast-Guard-Office-of-Search-and-Rescue-CG-SAR/>.

²¹⁸ “IAMSAR Manual,” International Maritime Organization, accessed November 16, 2022, <https://www.imo.org/en/OurWork/Safety/Pages/IAMSARManual.aspx>.

maintain an area committee “consisting of members from qualified personnel of federal, state, and local agencies with responsibilities that include preparing an area contingency plan.”²¹⁹ These area contingency plans (ACPs) are meant to “address removal of a worst-case discharge and to mitigate or prevent a substantial threat of such a discharge from a vessel, offshore facility, or onshore facility operating in or near an area designated.”²²⁰ Contained in the ACPs are specific strategies that direct even the smallest of details for response actions, including types of clean-up materials needed, booming strategies, and areas requiring extra protection. When a spill occurs, ICS is initiated, and one of the first actions is to open the ACP and follow its guidance. With both ICS and an agreed-upon, functioning plan in place, MOTR offers nothing new for the response.

Units, departments, or agencies often contact the GMCC with incidents that would not trigger a MOTR event, either out of an abundance of caution or because sharing information with the interagency might benefit other departments or agencies. In this way, MOTR, or more specifically, the GMCC, has expanded its role from an honest broker of information to a centralized clearinghouse for the interagency to share information. The GMCC is careful not to pass information for the sake of it but analyzes the value of the information to interagency partners, so as not to inundate the inboxes of participating agencies. MOTR partners understand that when they receive information or an email from the GMCC that it will be pertinent and valuable to the work that they do. To illustrate, the GMCC often distributes informational MOTRs (I-MOTRs) through email when federal coordination may not be necessary, but timely notification of an event or incident provides departments and agencies with increased maritime domain awareness that encourages continued participation and reinforces the unity of effort.²²¹

²¹⁹ “National Oil and Hazardous Substances Pollution Contingency Plan,” Environmental Protection Agency, *Code of Federal Regulations*, title 40 (2022 comp.): 300, <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-J/part-300>.

²²⁰ Environmental Protection Agency.

²²¹ This author observed these activities while assigned as a MOTR facilitator at the Global MOTR Coordination Center in 2020–2022.

E. INTERAGENCY DEVELOPMENT OF THE MOTR PLAN

For the MOTR Plan to be adopted by a broad audience, those who would use it had to participate in the document's development. This section highlights the interagency effort that went into drafting the plan and some of the considerations.

As the *National Strategy for Maritime Security* called for the development of the MOTR Plan, "representatives from the Department of Homeland Security, Justice, and Defense drafted the original plan."²²² The original draft was "rooted in standard military or search and rescue response terms" dividing the oceans into "various areas of responsibility, and maritime response agencies were assigned a designated lead based on those areas."²²³ For example, the U.S. Navy would be responsible for events and threats that occurred outside of U.S. territorial seas, and the USCG would be responsible for events and threats that occurred inside U.S. territorial seas. This "lead agency" method, however, worked only in practice "when the response agency has the full authority, capacity, and capability to handle the threat from initial notification to final disposition of people, vessels, or cargo."²²⁴ As this thesis shows, threats like piracy and terrorism rarely, if ever, fit within these parameters and almost always require the assistance or authority of other agencies.

Through trial and error, drafters of the final MOTR Plan "agreed that a unified effort and a whole-of-government approach would be the best option."²²⁵ The framers of the MOTR Plan did not abandon the lead agency method completely but modified "roles and responsibilities . . . based on their authority, capability, competency, and partnerships."²²⁶ Specifically, the MOTR Plan furnishes three lead agencies for three distinct mission sets:

1. DOD: responsible for nation-State threats and overseas;

²²² Scott Genovese, "The Maritime Operational Threat Response Plan: The Unified U.S. Response to Maritime Piracy," *Proceedings: Coast Guard Journal of Safety at Sea* 69, no. 1 (Spring 2012): 57.

²²³ Genovese, 57.

²²⁴ Genovese, 57.

²²⁵ Genovese, 57.

²²⁶ Tomasulo, "Evolution of Interagency Cooperation," 50.

2. DHS (includes USCG): responsible for interdiction in areas where it normally operates; and
3. DOJ: investigation of maritime terrorist acts or threats, coordination of the law enforcement community to prevent terrorist attacks against the U.S., and domestic intelligence collection.²²⁷

F. MOTR PROTOCOLS

The MOTR Plan itself is quite short. It describes how and when the plan should be used; however, the plan includes several protocols that “provide day-to-day operational guidance for specific threats and command center contact information.”²²⁸ The protocols make the plan a living document that flexes with the needs of the interagency and new or developing policies. The protocols also describe and detail how the plan should be implemented. In addition to the numerous threat profiles, the protocols include a list of “federal agency representatives” in the MOTR Advisory Group, “an informal ‘board of directors’ of the MOTR process.”²²⁹

Often, real-world events spur changes when they cause significant issues within the interagency or gain concurrence among partners for particular courses of action. For example, when the United States imposed additional sanctions on Russia after it invaded Ukraine in 2022, protocols for sanctioned vessels required delicate and coordinated action due to the scale. Typically, sanctions apply to specific vessels, corporations, or individuals, but these new sanctions applied to all vessels, individuals, corporations, and cargo originating from or affiliated with Russia, as both a country and a flag state.²³⁰ Interagency partners from across the federal government convened, at the request of and in coordination with the NSC, on several occasions to discuss how to approach and implement the sanctions to achieve the desired national outcome. Even while the interagency agreed on a

²²⁷ Tomasulo, 50.

²²⁸ Wilson, “Making Stovepipes Work,” 36.

²²⁹ Wilson, 36.

²³⁰ Joseph R. Biden, Executive Order 14071, “Prohibiting New Investment in and Certain Services to the Russian Federation in Response to Continued Russian Federation Aggression,” 87 *Federal Register* 20999 (2022), <https://www.federalregister.gov/documents/2022/04/08/2022-07757/prohibiting-new-investment-in-and-certain-services-to-the-russian-federation-in-response-to>.

plan of action, MOTR coordination still took place for individual cases to ensure all agency partners knew of the situation and could offer input on the details.

Sometimes, the need for modifications to the MOTR Plan comes on the heels of lessons learned during a tabletop exercise or when policies change within a particular agency. This was the case following a piracy tabletop exercise in 2021 with officials and military officers from the DOD, DHS, DOJ, DOS, DOT, and the Intelligence Community (IC). The piracy protocol within the MOTR Plan, called the Interagency Framework for Decision-Making on the Disposition of Suspected Pirates, was originally written in 2013 and affirmed in 2018. The exercise identified gaps in notification, specifically points of contact, and ambiguity within the decision matrix. As a result, a new contact list was established, and the decision matrix was updated for inclusion in the next version of the MOTR Plan and protocols to be approved by the NSC.

When a change or modification is needed, the interagency convenes in a meeting or series of meetings to discuss the issue and how it should proceed. Often, one agency agrees to take the lead in developing a draft revision. Once a draft is complete, the interagency reviews and provides edits and feedback for a final version. That final version is presented to the MSIPC and approved for interagency use and inclusion into the protocols of the MOTR Plan.

Most recently, the COVID-19 epidemic introduced new challenges that required an update to a protocol on migrants interdicted at sea in the Caribbean, hereafter “migrant business rules.” When migrants interdicted at sea request asylum, the migrant business rules call for the migrant to be interviewed for protection screening by USCIS. This interview, typically conducted at sea while on a USCG or U.S. Navy vessel, determines whether migrants have a “credible fear” of torture or persecution in their country of origin or departure. If USCIS determines the claim is credible, the migrants undergo further screening, typically on land, to determine whether their fear is well founded. In many cases, migrants are brought to the Migrant Operations Center (MOC) at Naval Station Guantanamo Bay (NSGB), Cuba. The MOC is a DHS facility used to house migrants

interdicted at sea awaiting processing for third-country resettlement.²³¹ While DHS maintains the facility, it is physically located on a U.S. Navy installation under the oversight of the NSGB commander.

During the COVID-19 epidemic, the USCG interdicted a COVID-positive migrant that manifested fear, determined by USCIS to be credible. Concerns were raised regarding the admission of a COVID-positive migrant to NSGB without a medical plan that identified how DHS would mitigate a COVID-19 emergency or outbreak at the MOC. The USCG and GMCC worked closely to establish new medical protocols that would permit the migrant to be housed at the MOC, as well as determined how COVID-19 patients would be isolated and what procedures applied for patients needing a medical evacuation for a higher level of care. A meeting of the MOTR Advisory Group convened, and new rules were incorporated into the migrant business rules.

The MOTR protocols create a mechanism for modifying the plan, making it flexible and applicable to federal agencies and policies that also change over time. This adaptability is an asset to organizations that participate in the MOTR process, allowing them to have a voice and ownership in that process. The protocols also allow interagency partners to incorporate new response scenarios. By establishing acceptable rules and expectations, the interagency can offer standing concurrence on events where procedures are outlined—an evident strength of MOTR protocols.

G. CONCLUSION

This chapter described how the MOTR Plan developed and how it fits into the maritime domain and homeland security. It opened with a description of the failures of the federal government in the Simas Kudirka case and the federal policy that developed as a direct result. These events and frameworks laid the foundation for additional policies and procedures that preceded and shaped the final MOTR Plan. This chapter further explored some of the nuances of dealing with threats in the maritime domain by examining real-

²³¹ Jacob Soboroff and Ken Dilanian, “Biden Administration Seeks Contractor to Run Migrant Detention Facility at Gitmo,” NBC News, September 22, 2021, <https://www.nbcnews.com/politics/immigration/biden-admin-seeks-contractor-run-migrant-detention-facility-gitmo-guards-n1279886>.

world examples of challenges faced by homeland security professionals, namely overlapping responsibilities. The sum of these factors contributed to the creation of the MOTR Plan, and two case studies presented in subsequent chapters provide context for how the plan is used routinely.

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IV. ANALYSIS OF THE MARITIME DOMAIN

This chapter introduces the maritime domain and highlights what makes it unique, important, and different from other regions. Additionally, it demonstrates how the MOTR Plan is the optimal response to security problems in the maritime domain. The uniqueness of the maritime domain requires a different approach and response to events and threats. In exploring which interagency response model—the NRF, JIATF-South, or NSC—is most appropriate for the maritime domain, Chapter II determined that the MOTR version of the NSC structure was the best alternative.

A. DEFINING THE MARITIME DOMAIN

In the post-9/11 analysis of vulnerabilities to the homeland, the maritime domain was recognized as a critical gateway to the safety and economic security of the United States. The 9/11 terror attacks brought no new or unique threats to the maritime domain, but they did illustrate the unique challenges, modalities of attack, and potential avenues for exploiting the United States.

When President Bush signed NSPD-41/HSPD-13, *Maritime Security Policy*, in December 2004, he established the Maritime Security Policy Coordinating Committee within the NSC system, as discussed in Chapter II. The *Maritime Security Policy* correctly identifies the maritime domain as a global issue “complex in nature and immense size” and “particularly susceptible to exploitation and disruption by individuals, organizations, and States.”²³² The policy’s aim was to develop and implement a *National Strategy for Maritime Security* to coordinate a whole-of-government “effort to enhance security of the Maritime Domain” and protect “against attack and criminal and otherwise unlawful or hostile exploitation.”²³³ To implement the *National Strategy for Maritime Security*, eight supporting plans were developed “to address the specific threats and challenges of the

²³² Bush, *Maritime Security Policy*, 2.

²³³ Bush, 2–4.

maritime environment,” not least of which was the *National Plan to Achieve Maritime Domain Awareness*, meant to identify threats as far from the United States as possible.²³⁴

The maritime domain is critical to both the global and U.S. economy, considering “about half the world’s trade by value, and 90 percent of the general cargo, are transported in containers,” thus allowing much of the world to participate in the global marketplace.²³⁵ Specific to the United States, as of 2021, “maritime vessels account for 40% of U.S. international trade value, nearly 70% of trade weight, with trade goods accounting for 18% of the 2020 Gross Domestic Product.”²³⁶ In 2020, goods shipped through the maritime domain accounted for 1.5 billion short tons (2,000 pounds), with a value of more than \$1.5 trillion, far outperforming any other form of trade modality.²³⁷ The *National Strategy for Maritime Security* recognizes the importance of protecting this valuable resource.

In addition to the commercial vessel traffic and trade, the world’s oceans provide recreation and a variety of food, mineral, and other natural resources that are critical to the economic viability of nation states, including the United States. The United Nations Convention on the Law of the Sea (UNCLOS) granted all states the right of sovereignty over those natural resources in 1994, establishing for every coastal state EEZs 200 nautical miles from their coastlines.²³⁸ Today, those EEZs account for 39 percent of the ocean’s surface across the globe (see Figure 3).²³⁹

²³⁴ White House, *The National Strategy for Maritime Security* (Washington, DC: White House, 2005), ii, <https://www.hsdl.org/?view&did=456414>.

²³⁵ White House, 1–2.

²³⁶ “On National Maritime Day and Every Day, U.S. Economy Relies on Waterborne Shipping,” Bureau of Transportation Statistics, May 12, 2021, <https://www.bts.gov/data-spotlight/national-maritime-day-and-every-day-us-economy-relies-waterborne-shipping>.

²³⁷ Bureau of Transportation Statistics.

²³⁸ “Oil and Petroleum Products Explained,” U.S. Energy Information Administration, October 4, 2022, <https://www.eia.gov/energyexplained/oil-and-petroleum-products/offshore-oil-and-gas.php>.

²³⁹ Gabriel Englander, “Are Unauthorized Foreign Vessels Deterred from Fishing inside Exclusive Economic Zones?,” *Global Fishing Watch* (blog), October 7, 2019, <https://globalfishingwatch.org/fisheries/foreign-vessels-fishing-eezs/>.

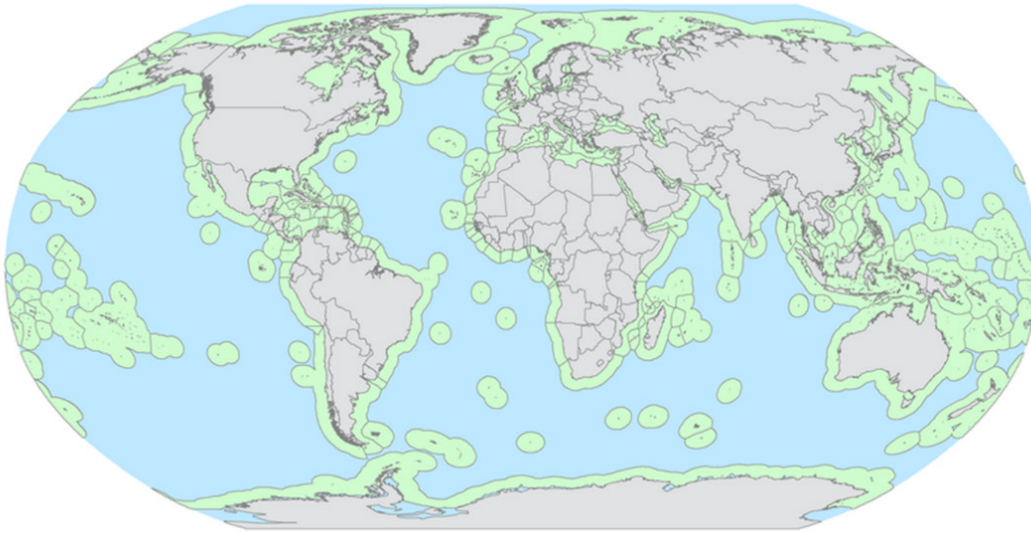


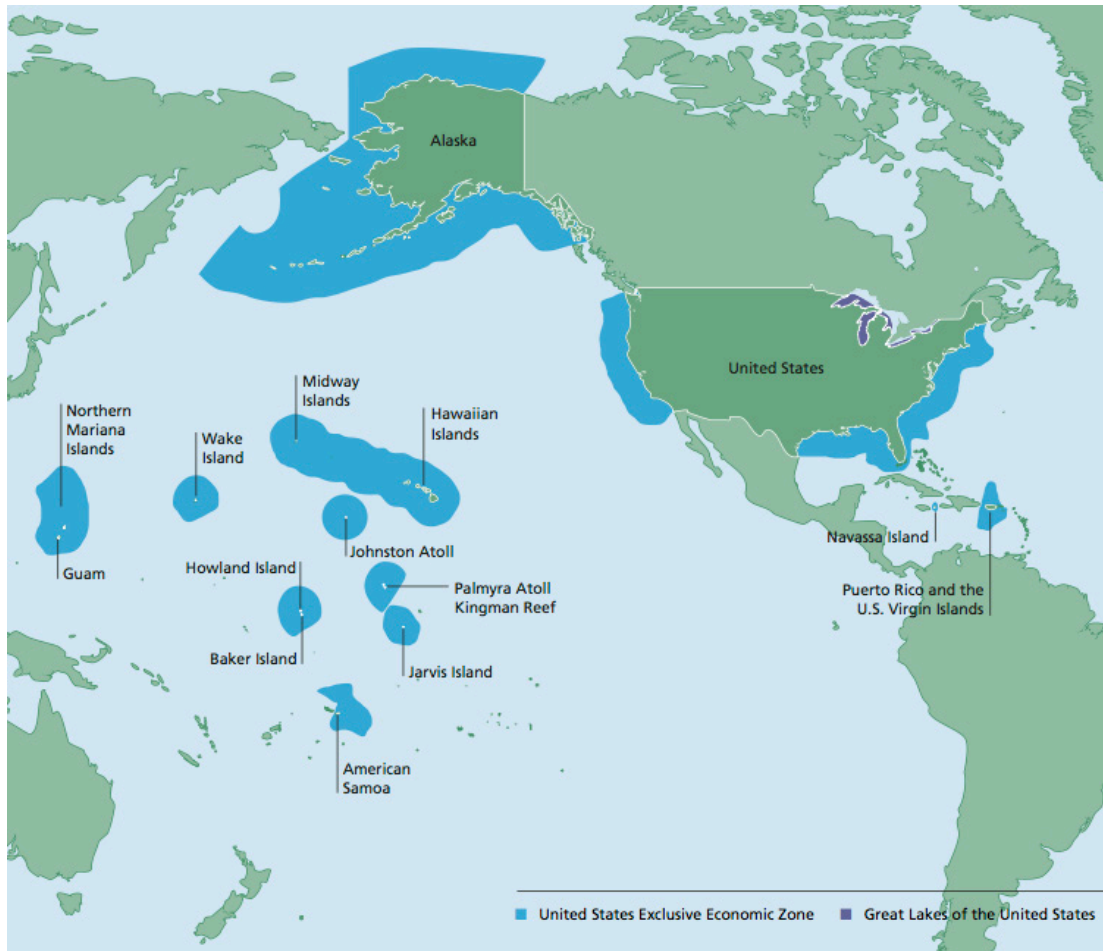
Figure 3. Global Map of EEZs (Green) and High Seas (Blue).²⁴⁰

The EEZ of the United States is the largest in the world, with over “3.4 million square miles of ocean and 90,000 miles of coastline” (see Figure 4).²⁴¹ The U.S. EEZ contributes to the country’s energy production in the form of wave and tidal energy, thermal conversion, and methane gas; however, most of the energy obtained within the EEZ comes from oil and natural gas pulled from the seabed.²⁴²

²⁴⁰ Source: Crow White and Christopher Costello, “Close the High Seas to Fishing?,” *PLoS Biology* 12, no. 3 (March 2014): 2, <https://doi.org/10.1371/journal.pbio.1001826.g001>.

²⁴¹ “USEEZ: Boundaries of the Exclusive Economic Zones of the United States and Territories,” U.S. Geological Survey, accessed June 4, 2022, <https://pubs.usgs.gov/ds/2006/182/basemaps/useez/useezmeta.htm>.

²⁴² U.S. Energy Information Administration, “Offshore Oil and Gas.”



Dark blue areas on this map outline the EEZ of the United States and affiliated islands. The U.S. EEZ is larger than its land area.

Figure 4. EEZs of the United States.²⁴³

In addition to the natural resources within the seabed of the EEZ, these waters contain natural resources, namely fish and other marine life. A 2021 Brookings Institution report finds that fishing is a “\$401 billion global industry, provid [ing] 20% of the protein intake for nearly half of the world’s population, and global fish consumption has been on

²⁴³ Source: Pacific Coastal and Marine Science Center, “Exclusive Economic Zone (EEZ),” U.S. Geological Survey, accessed July 28, 2022, <https://www.usgs.gov/media/images/exclusive-economic-zone-eez>.

the rise for almost 60 years.”²⁴⁴ As a matter of authority and control, nations have a sovereign right to those resources, as well as natural resources in the seabed, and can prohibit and prevent foreign vessels from fishing in their EEZs.²⁴⁵

The maritime domain also offers a natural barrier to threats of attack from distant lands. For example, the United States has historically enjoyed a natural buffer to the east and west in the form of the Atlantic Ocean and the Pacific Ocean, respectively. There is, however, an inverse relationship between the economic opportunities of international commerce into the United States and the role the oceans play as a natural defense.²⁴⁶ As advancements in technology and warfare progress by peer or near-peer adversaries, shifts in the security environment challenge this buffering concept.²⁴⁷

Historically, the United States has successfully projected power around the globe through rapid and effective deployments of American military forces, in large part, by way of the world’s oceans. Top North American Aerospace Defense Command/U.S. Northern Command (NORTHCOM) commanders argue that critical components of both the Chinese and Russian strategies against the United States involve preventing this type of rapid deployment of forces to delay or deny access to the combat theater.²⁴⁸ These enemy forces are targeting vulnerabilities in the maritime domain, where “the oceans that were formerly the moats that defended the arsenal of democracy have become a means of approach,” including and especially the ever-shrinking Arctic region to the north.²⁴⁹ Considering the

²⁴⁴ Michael Sinclair, “The National Security Imperative to Tackle Illegal, Unreported, and Unregulated Fishing,” *Order from Chaos* (blog), January 25, 2021, <https://www.brookings.edu/blog/order-from-chaos/2021/01/25/the-national-security-imperative-to-tackle-illegal-unreported-and-unregulated-fishing/>.

²⁴⁵ Englander, “Are Unauthorized Foreign Vessels Deterred.”

²⁴⁶ White House, *The National Strategy for Maritime Security*, 2.

²⁴⁷ Terrence J. O’Shaughnessy and Peter M. Fesler, *Hardening the Shield: A Credible Deterrent & Capable Defense for North America* (Washington, DC: Wilson Center, 2020), 2, https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/Hardening%20the%20Shield_A%20Credible%20Deterrent%20%26%20Capable%20Defense%20for%20North%20America_EN.pdf.

²⁴⁸ O’Shaughnessy and Fesler, 4.

²⁴⁹ O’Shaughnessy and Fesler, 2.

economic and homeland defense interests, the United States has an obligation to monitor, protect, and defend against threats in the maritime domain.²⁵⁰

B. UNIQUE CHALLENGES OF THE MARITIME DOMAIN

This section identifies the complexities of the maritime domain and their unique security challenges, covering the vastness, number of vessels on the water, and intricacies of port facilities. The maritime domain offers adversaries the opportunity to exploit the environment while challenging homeland security professionals to provide adequate protection.

Defending and protecting the maritime domain is a classic challenge of scale shaped by diverse complications. In a world covered by 71 percent water, with oceans accounting for about 97 percent of all water on earth, the sheer vastness is difficult to fathom.²⁵¹ The immensity is complicated by 50,000 or more commercial shipping vessels carrying an estimated 1,647,500 international seafarers globally at any given time.²⁵² These numbers only augment the nearly “12 million registered recreational vessels in the United States” and the excess of 300 cruise ships operating internationally.²⁵³ Additionally, approximately 83,000 vessels in the U.S. commercial fishing fleet conduct operations daily.²⁵⁴ This vast number of vessels, in addition to the number of mariners,

²⁵⁰ George W. Bush, “Remarks at the Closing Session of the Asia-Pacific Economic Cooperation Summit in Santiago,” American Presidency Project, November 20, 2004, <https://www.presidency.ucsb.edu/node/212827>.

²⁵¹ Water Science School, “How Much Water Is There on Earth?,” U.S. Geological Survey, November 13, 2019, <https://www.usgs.gov/special-topics/water-science-school/science/how-much-water-there-earth>.

²⁵² “Shipping and World Trade: Global Supply and Demand for Seafarers,” International Chamber of Shipping, accessed June 5, 2022, <https://www.ics-shipping.org/shipping-fact/shipping-and-world-trade-global-supply-and-demand-for-seafarers/>.

²⁵³ “Number of Registered Recreational Boats in the United States from 1980 to 2021,” Statista, October 18, 2021, <https://www.statista.com/statistics/240634/registered-recreational-boating-vessels-in-the-us/>; Joseph V. Micallef, “State of the Cruise Industry: Smooth Sailing into the 2020s,” *Forbes*, January 20, 2020, <https://www.forbes.com/sites/joemicallef/2020/01/20/state-of-the-cruise-industry-smooth-sailing-into-the-2020s/>.

²⁵⁴ Steven Tucker, “Paper Parks, Paper Tigers, and Paper Trails: Marine Protected Area Designation and Enforcement,” *Proceedings: Coast Guard Journal of Safety at Sea* 75, no. 1 (Spring 2018): 9, https://www.dco.uscg.mil/Portals/9/DCO%20Documents/Proceedings%20Magazine/Archive/2018/Vol75_No1_Spring2018.pdf?ver=2018-03-08-164356-243.

amount to incredible potential vulnerabilities that make the maritime domain an enormous challenge to protect and defend.

Aside from the water itself and the variety of vessels that operate in the maritime domain, the approximate 360 port facilities in the United States account for nearly \$4 billion in goods moving in and out of the country daily.²⁵⁵ Often at the breakneck speed of the commercial industry, where time is money, “vessel movements, activities, cargoes, intentions, or ownership is often difficult to discern,” creating a challenge for law enforcement and security professionals.²⁵⁶ Also, an intricate ecosystem within and around the nation’s port complexes and nearby waters is unique to the maritime domain. This ecosystem may include bridges and tunnels and other infrastructure designed to process or receive goods through commercial shipping or simply navigate any mode of transportation near those facilities, including cars and trucks, rail cars, and ships. Other industries, like chemical and nuclear facilities, may also require a waterfront facility to take advantage of the water supply within the maritime domain as a function of their production processes.

In contrast to the vast open water discussed earlier, port facilities are characterized by the complexity of their networks, narrow channels and approaches, critical infrastructure, and other issues that all have inherent vulnerabilities and require safeguards. Further, the complexity of the port environments “provides an opportunity for terrorist and criminal organizations to introduce illicit personnel or equipment into the United States.”²⁵⁷ As the *National Strategy for Maritime Security* adds, “the continued growth in legitimate international commerce in the maritime domain has been accompanied by growth in the use of the maritime domain for criminal purposes.”²⁵⁸ Just as the maritime domain offers lucrative economic opportunities to legitimate operations, these same avenues offer “highways for the import and export of illegal commodities” and other

²⁵⁵ “A Nation with 360 Ports,” *Maritime Executive*, April 14, 2016, <https://www.maritime-executive.com/features/a-nation-with-360-ports>.

²⁵⁶ White House, *The National Strategy for Maritime Security*, 2.

²⁵⁷ Tomasulo, “Evolution of Interagency Cooperation,” 17.

²⁵⁸ White House, *The National Strategy for Maritime Security*, 5.

activities, such as “the smuggling of people, drugs, weapons, and other contraband, as well as piracy and armed robbery against vessels, [that] pose a threat to maritime security.”²⁵⁹

Due to the openness and complexity of the maritime environment, criminals and terrorists have unique opportunities to exploit vulnerabilities in the maritime domain. The maritime domain serves as “not only a medium by which adversaries can move” but also “a broad array of potential targets that fit the terrorists’ operational objectives of achieving mass casualties and inflicting catastrophic economic harm.”²⁶⁰ The immensity of the maritime domain can grant the space to operate nearly unrestricted and without detection, and the complexity contributes to the ability to operate with a fair amount of anonymity. The goal and the challenges, therefore, are to provide effective maritime security against all possible threats while facilitating maritime commerce with minimal impact.

C. LEGAL AUTHORITIES IN THE MARITIME DOMAIN

Because no one nation owns the world’s oceans, the maritime domain exists within a unique legal framework. This framework provides insight into when legal or law enforcement action is appropriate and necessary to protect U.S. interests and defend American citizens. In the maritime domain, location determines what and whose laws apply and, similarly, what laws the United States can enforce and upon whom.

UNCLOS established the sovereign rights of nations to protect natural resources and other economic interests within 200 nautical miles of their coastlines (i.e., EEZs). In addition to these zones, UNCLOS established *territorial seas*, which permit coastal states to exercise full sovereignty over waters 12 nautical miles from their coastlines.²⁶¹ Beyond territorial seas is an area called the *contiguous zone*, which extends 24 nautical miles from a nation’s shoreline and permits a coastal state to enforce laws that “prevent infringement of its customs, fiscal, immigration, or sanitary laws and regulations.”²⁶² These three

²⁵⁹ White House, *The National Strategy for Maritime Security*, 5.

²⁶⁰ White House, *The National Strategy for Maritime Security*, 3.

²⁶¹ U.N. Convention on the Law of the Sea, 1833 U.N.T.S. 397 (1982), art. 3.

²⁶² U.N. Convention on the Law of the Sea, art. 33.

zones—the territorial seas, the contiguous zone, and the EEZ—create two other commonly understood areas in the maritime domain: international waters and the high seas. *International waters* represent the area between territorial seas of other nations or anything outside of 12 nautical miles from any coastal state. The term *high seas* applies to all parts of the sea that extend from one nation’s EEZ to another nation’s EEZ and, in accordance with international law, guarantees the freedom of navigation and overflight, freedom of scientific research, and freedom of fishing.²⁶³ A nation may enforce all of its laws on any vessel within 12 nautical miles of its shoreline; certain financial, immigration, sanitary, and customs laws within 24 nautical miles of its shoreline; and laws that protect natural and economic resources within 200 nautical miles of its shoreline (see Figure 5).

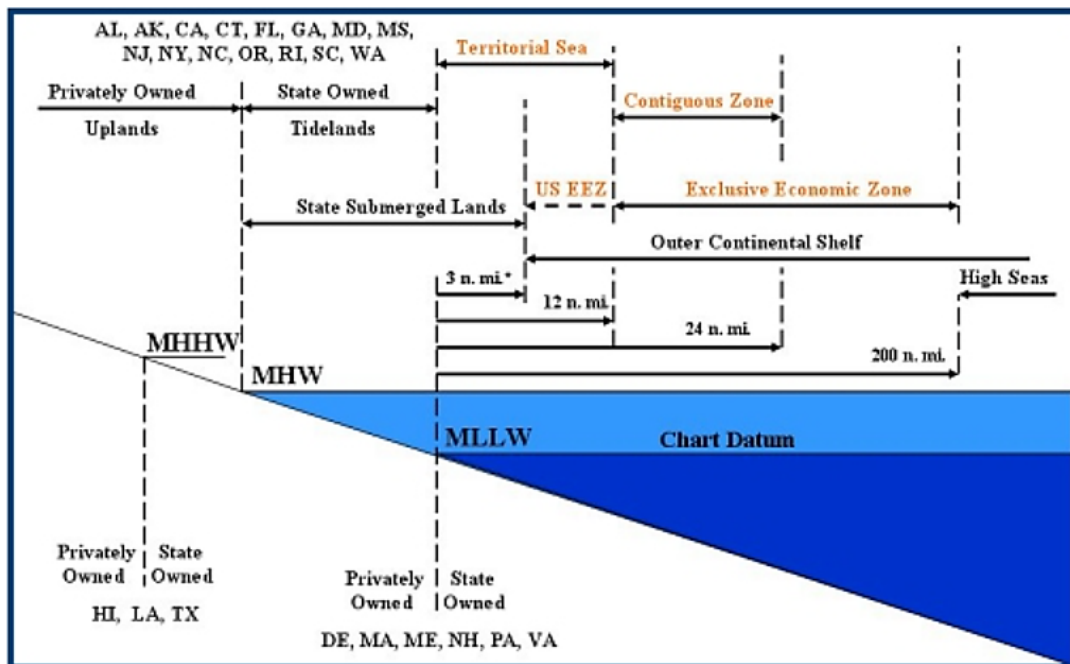


Figure 5. Maritime Boundaries and Zones.²⁶⁴

²⁶³ U.N. Convention on the Law of the Sea, art. 21.

²⁶⁴ Source: “U.S. Maritime Limits & Boundaries,” Office of Coast Survey, accessed July 30, 2022, <https://nauticalcharts.noaa.gov/data/us-maritime-limits-and-boundaries.html>.

While location is critical in identifying which country's laws may apply in the maritime domain, the nationality of the vessel (where it is registered) determines other applicable laws. Most vessels, particularly commercial vessels, are required to register with a specific country, also called a "flag state." Sailing under a flag state provides the registering nation with exclusive jurisdiction over the vessel in international waters and on the high seas.²⁶⁵ The flag state also maintains jurisdiction over the vessel at all times, regardless of its location in the maritime domain. Thus, in most cases, "only the flag State may take enforcement action on the high seas [or elsewhere] against a vessel under its registry."²⁶⁶

For a nation to board a foreign-flagged vessel for law enforcement purposes, it needs to seek outside authority to do so.²⁶⁷ This is commonly accomplished through a "flag State's prior consent to board, a flag State's favorable reply to a boarding request, a bilateral or regional agreement, a United Nations Security Council Resolution, consent from the master of the vessel, or as a condition of entry into port."²⁶⁸ Moreover, vessels that do not claim nationality, do not sail under a nation's flag, or sail "under the flags of two or more States" may be considered ships without nationality.²⁶⁹ These vessels are, therefore, subject to the authority, jurisdiction, and laws of any nation.²⁷⁰ Additionally, UNCLOS provides justification for any warship to board any vessel, regardless of location, if there are reasonable grounds to suspect that a ship may be engaging in piracy or slave trade or if the ship is engaged in unauthorized broadcasting.²⁷¹

In addition to the general international laws outlined in UNCLOS, other international treaties, agreements, or arrangements may be enforced where applicable. Two

²⁶⁵ U.N. Convention on the Law of the Sea, art. 92.

²⁶⁶ Brian Wilson, "Human Rights and Maritime Law Enforcement," *Stanford Journal of International Law* 52, no. 2 (2016): 247, <https://ssrn.com/abstract=2820578>.

²⁶⁷ Wilson, 247.

²⁶⁸ Wilson, 247.

²⁶⁹ U.N. Convention on the Law of the Sea, art. 92.

²⁷⁰ U.N. Convention on the Law of the Sea, art. 92.

²⁷¹ U.N. Convention on the Law of the Sea, art. 110.

common treaties the United States enforces include the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (also known as the Vienna Drug Convention) and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.²⁷² These, among several other bilateral agreements, grant the United States certain limited authority to conduct maritime law enforcement operations on foreign-flagged vessels, both on the high seas and even the territorial seas of some nations in some cases.

D. CONCLUSION

This chapter has identified the maritime domain as a unique environment shaped by the size, intricacy, and legal authorities found there. Understanding the legal framework associated with the maritime domain helps to identify when legal or law enforcement action is needed, appropriate, and applicable to protect the interests of the United States and defend its citizens. The complexities in both the maritime domain and the unique legalities also speak to which interagency components may be necessary to coordinate action or share information. For example, a USCG vessel may interdict a vessel on the high seas and conduct a law enforcement boarding consistent with a bilateral agreement between the United States and another country. In many cases, if the incident concerns prosecutorial action, the DOJ will be involved, and if the incident means engaging with another nation, the DOS will also be involved. Such involvement is not true of all cases, but the maritime domain is nuanced and may cause international conflict if there is ambiguity or confusion when nations engage with one another. The following chapter presents case studies that illustrate such complexities of interagency coordination in response to maritime incidents.

²⁷² Wilson, “Human Rights and Maritime Law Enforcement,” 247.

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V. INTERAGENCY COLLABORATION IN THE MARITIME DOMAIN: USE OF THE MOTR PLAN

So far, this thesis has examined the need for and prominence of interagency groups, as well as the challenges associated with such groups. Interagency responses are also necessary for the unique maritime domain and further complicated by the complex legal system associated with it. With the MOTR Plan came the objective to cut through the challenges and bureaucracy associated with interagency groups, particularly at the federal level, to achieve a desired national outcome. This chapter explores some of the nuances in dealing with threats in the maritime domain by examining three real-world examples of challenges faced by homeland security professionals, namely overlapping responsibilities. The final case study details how the MOTR process facilitated interagency collaboration to mitigate a maritime threat and save an American life.

A. M/V *SUN SEA* CASE

This section introduces a typical threat event that requires interagency coordination in the maritime domain. The M/V *SUN SEA* case highlights the complexity of the maritime domain, illustrating how interagency and international partners came together to mitigate a threat to both the United States and Canada and created an ongoing process for collaboration between the two nations. The incident occurred in late 2010, just four years after the MOTR Plan was implemented and only months after the GMCC was established. As demonstrated in this case study, the MOTR Plan has proven applicable not only in the United States but also beyond U.S. borders.

Sun Sea was a dilapidated, nearly 200-foot-long, 30-year-old cargo vessel registered in Thailand.²⁷³ The Canadian government closely monitored the vessel when it departed the Gulf of Thailand in May 2010, as it was reportedly bound for Canada (see

²⁷³ Sherlock Case Law Database, “MV Sun Sea (Canada),” United Nations Office on Drugs and Crime, accessed June 7, 2022, https://sherloc.unodc.org/cld/en/case-law-doc/migrantsmugglingcrimetype/can/2013/mv_sun_sea_canada.html.

Figure 6).²⁷⁴ Of particular interest to the Canadians, aboard were 492 Sri Lankan migrants seeking asylum, some of whom were believed to have associations with the Liberation Tigers of Tamil Eelam (LTTE), a militant Sri Lankan separatist group.²⁷⁵ The “Tamil Tigers” were a violent organization that had “carried out a number of high-profile attacks” in Sri Lanka, “including assassination of two heads of state” and were designated as a foreign terrorist organization in both the United States and Canada.²⁷⁶ In addition to the persons of interest, the Canadian government believed the vessel to be part of a human smuggling venture organized by the LTTE, whereby each person was charged \$20,000 to \$30,000 USD to be transported.²⁷⁷

²⁷⁴ Sherlock Case Law Database.

²⁷⁵ Sherlock Case Law Database.

²⁷⁶ “Liberation Tigers of Tamil Elam,” Center for International Security and Cooperation at Stanford University, June 2018, <https://cisac.fsi.stanford.edu/mappingmilitants/profiles/liberation-tigers-tamil-elam>.

²⁷⁷ Bellissimo Law Group PC, “10 Years On: Remembering Sun Sea, the Ship That Changed Canada’s Immigration Laws,” *Canadian Immigration Blog*, August 14, 2020, <https://www.bellissimolawgroup.com/10-years-on-remembering-sun-sea-the-ship-that-changed-canadas-immigration-laws/>.



Figure 6. M/V *Sun Sea* in 2010.²⁷⁸

As *Sun Sea* made the three-month journey across the Pacific Ocean, social media posts from the migrants' relatives piqued the interest of authorities and news media.²⁷⁹ American media outlets interested in the story made inquiries to the USG about U.S. obligations for potential search-and-rescue scenarios, collaborative engagements that might be taking place with Canada, and any medical considerations.²⁸⁰ There was also growing concern that the vessel might decide to make landfall in the United States instead of Canada, initiating talks to discuss U.S. response options across multiple departments and agencies.²⁸¹

As *Sun Sea* approached British Columbia on Canada's west coast, it was in poor material condition and grossly overcrowded and was thought to have an unknown number

²⁷⁸ Source: "Canadian Court Hears Case against Four Lankan Human Smugglers after Six Years," *Daily News* (Sri Lanka), October 21, 2016, <https://www.dailynews.lk/2016/10/21/local/96643>.

²⁷⁹ Wilson and Johnson, "Bordering on Crisis."

²⁸⁰ Wilson and Johnson, 274.

²⁸¹ Wilson and Johnson, 274.

of sick passengers.²⁸² On August 12, 2010, the Canadian Navy interdicted *Sun Sea* outside its territorial seas, west of the entrance to the Strait of Juan de Fuca, the narrow channel that separates Washington state in the United States from British Columbia in Canada.²⁸³ No one on board claimed to be the master or person in charge, nor could someone provide evidence of a flag state, so the vessel was determined to be stateless.²⁸⁴ On August 13, 2010, *Sun Sea* was escorted to a port in Esquimalt, British Columbia, without further incident or U.S. involvement.²⁸⁵

During the incident, ambiguity surrounded where the vessel might be headed, what and who might be on board, what the final disposition of the vessel might be, how these questions might be addressed, and what U.S. agencies needed to be involved.²⁸⁶ While these questions arose on the American side, the situation called for close coordination between the United States and Canada, particularly regarding information sharing. Even though the incident required no bilateral engagements between U.S. and Canadian officials, discussions of such a scenario occurred in stovepipes and were limited between agencies.²⁸⁷ For example, representatives from the CBP in the United States spoke only to representatives from Canadian Customs, the FBI spoke only to the Royal Canadian Mounted Police, and the USCG interacted only with the Canadian Coast Guard.²⁸⁸ Just as the USG was coordinating potential response options through the MOTR process, the Canadian government was coordinating through its mechanism, known as the Maritime Event Response Protocol (MERP), yet there was no collective coordination outside of individual components on both sides engaging with one another.²⁸⁹

²⁸² Wilson and Johnson, 274.

²⁸³ Kathryn Blaze Carlson, “Canadian Authorities Board Tamil Ship,” *National Post*, August 12, 2010, <https://nationalpost.com/news/canada/rcmp-board-tamil-ship-reports>.

²⁸⁴ Brian Wilson, personal communication, October 31, 2018.

²⁸⁵ Carlson, “Canadian Authorities Board Tamil Ship.”

²⁸⁶ Wilson, personal communication.

²⁸⁷ Wilson.

²⁸⁸ Wilson.

²⁸⁹ Wilson.

The post-event analysis of the *Sun Sea* incident by both countries identified the need for an information-sharing mechanism between the United States and Canada and ultimately created the MERP/MOTR Strategic Protocol.²⁹⁰ Approved by both governments in June 2012, the MERP/MOTR Strategic Protocol currently facilitates the exchange of maritime threat information between the United States and Canada and documents the process for cross-border coordination. Since its inception, the MERP/MOTR Strategic Protocol has been both actively used and exercised annually and has enhanced bi-national collaboration and coordination.

B. M/V ZUMAQUE TRACER CASE

The case of M/V *Zumaque Tracer* represents an event that began normally but escalated into urgent interagency coordination through the MOTR process. At the time of the incident, *Zumaque Tracer* was a Cameroonian-flagged 256-foot coastal freighter crewed by seven Venezuelan nationals.²⁹¹ On August 12, 2019, the USCG approached the vessel, which had reportedly been anchored outside the territorial seas of Aruba for several weeks.²⁹² The USCG, suspecting the vessel of involvement in illicit drug trafficking, exercised its right to approach the vessel to validate its registry.²⁹³

The USCG requested that the DOS send a diplomatic note to Cameroon, the flag state, to verify the ship's registry and gain permission to board and search the vessel in accordance with Article 17 of the Vienna Drug Convention of 1988.²⁹⁴ Article 17 provides a mechanism for approaching foreign flag states and asking for permission to conduct counter-drug law enforcement operations on vessels suspected of engaging in illicit

²⁹⁰ Wilson.

²⁹¹ Ashley Cox, "Seven Men Sentenced for Smuggling Cocaine on Board the Coastal Freighter *Zumaque Tracer*," CBS Tampa Bay, August 17, 2021, <https://tampa.cbslocal.com/2021/08/17/seven-men-sentenced-for-smuggling-cocaine-on-board-the-coastal-freighter-zumaque-tracer/>.

²⁹² United States v. Marin, No. 8:19-cr-488-T-36JSS (M.D. Fla. Nov. 6, 2020), 2.

²⁹³ *Marin*, at 2.

²⁹⁴ *Marin*, at 2.

trafficking.²⁹⁵ Eight days later, on August 21, “the government of Cameroon confirmed the registry and granted permission for U.S. law enforcement personnel to stop, board, and search” *Zumaque Tracer*.²⁹⁶

Another nine days later, on August 30, the USCG re-located *Zumaque Tracer* transiting “international waters of the Caribbean Sea, on a northwesterly course towards Grand Cayman,” exhibiting “multiple signs consistent with drug trafficking and inconsistent with the stated purpose of the voyage.”²⁹⁷ This conflicting information gave the USCG reasonable suspicion to investigate *Zumaque Tracer* further and board the vessel under Cameroon’s previously granted flag state authority.²⁹⁸ During the boarding, the USCG “located and seized 143 bales of cocaine on board containing approximately 4,225 kilograms of cocaine, worth approximately \$105 million, concealed in the vessel’s aft wing ballast tanks.”²⁹⁹ As a matter of practice and for evidence in a criminal trial, the seven individuals and the contraband were detained on the USCG cutter.³⁰⁰

Cameroon, as the flag state, had exclusive jurisdiction over the prosecution of the alleged crime and had the first right to execute its jurisdiction. The DOJ was interested in prosecuting the seven Venezuelan nationals, but doing so required the government of Cameroon to waive its right of jurisdiction, a common process in international drug cases. On September 3, the DOS sent the legal documents requesting a waiver of jurisdiction to the Cameroonian government; three days later, the DOS received a confirmation of receipt from Cameroon that it had received the request.³⁰¹ However, by September 19, nearly

²⁹⁵ U.N. Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1582 U.N.T.S. 95 (1988), art. 17, <https://www.refworld.org/docid/49997af90.html>.

²⁹⁶ *Marin*, No. 8:19-cr-488-T-36JSS, at 2.

²⁹⁷ Cox, “Seven Men Sentenced.”

²⁹⁸ *Marin*, No. 8:19-cr-488-T-36JSS, at 2.

²⁹⁹ “Seven Men Sentenced to Federal Prison for Smuggling Cocaine on Board the Coastal Freighter *Zumaque Tracer*,” U.S. Attorney’s Office, Middle District of Florida, August 17, 2021, <https://www.justice.gov/usao-mdfl/pr/seven-men-sentenced-federal-prison-smuggling-cocaine-board-coastal-freighter-zumaque>.

³⁰⁰ *Marin*, No. 8:19-cr-488-T-36JSS, at 3.

³⁰¹ *Marin*, at 3.

three weeks after the initial interdiction, the DOS still had no reply from Cameroon and renewed the request for a waiver of jurisdiction.³⁰²

With almost a month elapsed and the detainees and contraband still on the USCG cutter, the first MOTR conference convened on September 27.³⁰³ Interagency representatives from the DHS, DOS, DOD, and DOJ came together to discuss the way ahead and determine the desired national outcome.³⁰⁴ At the end of the meeting, the representatives decided that the DOS would continue to pursue the waiver of jurisdiction while DHS made arrangement to bring the detainees ashore and re-examine the situation on September 30.³⁰⁵ The DOS continued to elevate the request through diplomatic channels and pressed for a resolution.³⁰⁶

When a second MOTR conference convened on October 1, interagency representatives decided to continue holding the detainees on the USCG cutter until Cameroon approved the waiver of jurisdiction.³⁰⁷ This time, the representatives decided that if the waiver was not approved, the USG would seek to repatriate the detainees through normal DOS processes.³⁰⁸ In the following days, a third, fourth, and fifth MOTR conference convened to discuss alternative solutions, including the possibility of transferring the detainees to alternate locations ashore while a more definitive answer from Cameroon could be obtained.³⁰⁹

At the sixth and final MOTR conference, convened on October 12, the DOS reported it had “received a vessel registry deletion certificate, dated September 18, 2019” in response to the U.S. request, summarily stripping *Zumaque Tracer* of Cameroon’s

³⁰² *Marin*, at 3.

³⁰³ Global MOTR Coordination Center, personal communication, September 23, 2020.

³⁰⁴ Global MOTR Coordination Center.

³⁰⁵ Global MOTR Coordination Center.

³⁰⁶ Global MOTR Coordination Center.

³⁰⁷ Global MOTR Coordination Center.

³⁰⁸ Global MOTR Coordination Center.

³⁰⁹ Global MOTR Coordination Center.

sovereign protection.³¹⁰ This action allowed the DOJ to adjudicate the case in the United States. The case was finally tried by the United States Attorney's Office in the Middle District of Florida, where the judge "sentenced the seven Venezuelan nationals to federal prison for conspiracy to distribute and to possess with the intent to distribute five kilograms or more of cocaine while onboard a vessel subject to the jurisdiction of the United States."³¹¹

The *Zumaque Tracer* case started as a normal drug incident for the USCG whereby a standard procedure detailed how to manage the case package, the smugglers, and the contraband, in addition to the chain of custody, by handing the case over to the DOJ. The waiver of jurisdiction took more than 40 days, leaving the detainees on the USCG cutter at sea, which the court found "attributable to the issues of international communication, comity and jurisdiction."³¹² Having seven extra detainees on the cutter limited its ability to conduct further missions in the theater of operations. This case required significant DOS involvement and illustrated that the MOTR Plan and process can flex with the needs of those at the tactical level. While not expedient, the MOTR process allowed the participating agencies to work within their specialties to accomplish the desired national outcome, the successful prosecution of drug smugglers, in this case.

C. **M/V MAERSK ALABAMA CASE**

While most MOTR coordination responses occur solely within government channels, several threats addressed through the MOTR process include high-profile events that received considerable media attention, such as the piracy attack involving the M/V *Maersk Alabama*. The use of the MOTR Plan to coordinate a U.S. response to the hijacking of the *Maersk Alabama* and the subsequent kidnapping of its captain, Captain Richard Phillips, is seen as a landmark case, highlighting the success and applicability of this interagency process. The interagency coordination officially lasted 15 days, from April 7, 2009, through April 21, 2009. Except where noted, this section is based on speaker notes

³¹⁰ *Marin*, No. 8:19-cr-488-T-36JSS, at 3.

³¹¹ U.S. Attorney's Office, Middle District of Florida, "Seven Men Sentenced to Federal Prison."

³¹² *Marin*, No. 8:19-cr-488-T-36JSS at, 3, 10.

from a presentation at the 13th Annual Critical Incident Analysis Group Conference in 2012.³¹³

The MOTR Plan proved not only critical but also scalable, with its ability to adapt quickly from small drug or migrant cases to large-scale cases involving national-level participation from across the spectrum of the federal government. While media events, books, and even a few movies told the story of the rescue of Captain Phillips, the untold story demonstrates how federal agencies came together, made decisions together, acted together, thus validating interagency cooperation and laying the groundwork for the GMCC.

At the time of the incident, M/V *Maersk Alabama* was a 508-foot U.S.-flagged container ship owned and operated by the Maersk Line (a U.S. company) and home-ported in Norfolk, Virginia (see Figure 7). Notably, she was one of about 60 U.S. commercial vessels—meaning non-military or non-government owned—enrolled in the Maritime Security Program, whereby the owners agreed to use the ship at the discretion of the secretary of defense in times of war or national emergency to meet national defense or other security objectives.³¹⁴ This important designation meant that the ship was strategically important, which certainly elevated the interest of the USG to bring this case to a quick conclusion. In April 2009, the crew consisted of 20 U.S. citizens, as required by the Maritime Security Program, and was sailing toward Mombasa, Kenya, with a shipment of food aid for the UN’s World Food Program, in addition to other cargo.³¹⁵

³¹³ Brad Kieserman, “Navigating a Sea of Uncertainty” (presentation notes, 13th Annual Critical Incident Analysis Group Conference, March 13, 2011).

³¹⁴ Terry McKnight and Michael Hirsh, *Pirate Alley: Commanding Task Force 151 Off Somalia* (Annapolis, MD: Naval Institute Press, 2012), 142.

³¹⁵ McKnight and Hirsh, 123.



Figure 7. M/V *Maersk Alabama*.³¹⁶

Four relevant details before the April 2009 attack on the M/V *Maersk Alabama* give context to the analysis that follows. First, the MOTR Plan had been in use since November 2006, when it was formally approved by President Bush and the NSC. Next, Somali pirates had been holding 14 vessels with approximately 260 crewmembers on board near the Horn of Africa. Also, in the same week of the *Maersk Alabama* attack, Somali pirates attacked five other vessels nearby. Finally, the 20-member crew received anti-piracy training and conducted anti-piracy drills the day before the initial attack.

1. Day One: April 7, 2009

Early on April 7, 2009, *Maersk Alabama* was traveling approximately 300 miles off the coast of Somalia when the crew detected three small skiffs shadowing its movements and trailing about five miles behind the vessel. Although the small vessels attempted to close the gap, they could only get within a mile of the ship's position given the sea conditions.

³¹⁶ Source: U.S. Navy, "Maersk Alabama Pirate Attack," Defense Visual Information Distribution Service, April 9, 2009, <https://www.dvidshub.net/image/164816/maersk-alabama-pirate-attack>.

2. Day Two: April 8, 2009

The following morning, on April 8, the *Maersk Alabama*'s crew spotted a medium-size boat about five miles away, suspected of being a pirate mother ship and attempting to hail on the marine band radio, calling, "Stop ship stop, this is Somali Pirate." Moments later, a small white skiff was seen approaching and closing distance quickly. In response, *Maersk Alabama* called the United Kingdom Navy's Maritime Trade Organization in Dubai, which told crewmembers to call back when the skiff was within one mile.

Additionally, Captain Richard Phillips ordered all piracy hoses turned on and, as was protocol, red flares launched (an international sign of distress) and locked down the deckhouse. These measures proved ineffective, however. Within 15 minutes of the initial sighting, the skiff was alongside *Maersk Alabama*, firing shots at the bridge. Most of the crew retreated to the safety of the steering gear room inside the engine room, which was fortified for such an occasion and in accordance with their drills. The chief engineer and chief mate remained about the ship to locate and rescue Captain Phillips, if needed.

Then, Captain Phillips announced that the pirates had boarded the ship with several weapons, breached the pilothouse, and gained control of the ship's bridge. Not letting the pirates control the large vessel, the chief engineer shut the engines down from the engine room and made aggressive rudder turns, causing the ship to move wildly in the ocean, sinking the pirates' skiff. This minor victory was short lived, as *Maersk Alabama* was now the first U.S.-flagged ship to be seized by pirates since the early 1800s.

The crew of *Maersk Alabama* activated the Ship Security Alert System, an emergency beacon sent directly to USCG command centers, among other sites, via satellite to notify them of a piracy or terrorist event on board a vessel. In less than five minutes, the USCG's Pacific Area Command Center had received the distress signal and contacted the chief security officer for Maersk Line, who confirmed that the signal was not a false alarm. Approximately nine hours after the first pirate boarded *Maersk Alabama*, the first MOTR conference convened over a non-secure VTC and served as an initial information exchange.

The pirates determined they could not bring *Maersk Alabama* back to Somalia with them, given the crew's resistance. They decided to empty the ship's safe of approximately

\$20,000 and depart with Captain Phillips in one of the ship's 28-foot encapsulated lifeboats. While the lifeboat stored nine days of water and rations, it lacked ventilation and any form of sanitation or toilet (see Figure 8).



Figure 8. 28-foot Lifeboat from *Maersk Alabama*.³¹⁷

By the end of the second day, a second MOTR conference convened, this time held via SVTC, with representatives from the DOD, the Office of the Secretary of Defense (OSD), the National Military Command Center, the JCS, the DOS, the USCG, the DOJ and FBI, the DOT's Maritime Administration, DHS, the National Maritime Intelligence Center (NMIC)'s Office of Naval Intelligence, the NSC, and the Homeland Security Council. Given the events and circumstances, these were the departments and agencies with equal roles to play in executing a desired national outcome.

A course of action was determined at this first key decision-making meeting. The interagency decided that the desired national outcome consisted of three things: 1) ensuring the safety of U.S. persons at sea, 2) capturing and bringing pirate perpetrators to justice, and 3) collecting evidence and intelligence to support prosecution and ongoing or future

³¹⁷ Source: U.S. Navy, "Maersk Alabama Pirate Attack, Lifeboat," Defense Visual Information Distribution Service, April 9, 2009, <https://www.dvidshub.net/image/164823/maersk-alabama-pirate-attack>.

operations. Additionally, roles and responsibilities were determined, clarified, and agreed upon: the DOD would be the lead MOTR agency, with the United States Central Command the supported command and the United States Africa Command (AFRICOM) the supporting command; the OSD would be lead for public affairs; the DOS would be lead for public diplomacy; the DOJ would be lead in prosecution decisions and would be the lead MOTR agency following the seizure, capture, or surrender of pirates; and the USCG would be lead for principle federal communications with Maersk Line.

During this MOTR conference, it was also determined that Maersk Line had expressed the desire and intent to negotiate with the pirates to re-acquire Captain Phillips. The FBI would be available to aid the negotiators as needed. The USS *Bainbridge*, a U.S. Navy vessel patrolling a few hundred miles away, would be moved in to surveil the situation and initiate communications with the pirates.

The USG, through the concurrence of federal interagency partners, had a desired national outcome, a course of action to achieve it, and specified leads for performing the different aspects of the plan. By the end of the second day, the USS *Bainbridge* had arrived on scene with *Maersk Alabama* and the pirate-controlled lifeboat to begin what would become an epic standoff. The USS *Bainbridge* maintained its distance, stayed well outside the maximum effective range of any firearm the pirates could use against the vessel, and established radio communications.

3. Day Three: April 9, 2009

On the third day of the ordeal, the authorities decided that with the pirates and their prisoner in the lifeboat, it was best for *Maersk Alabama* to continue to its destination in Mombasa, Kenya, with an armed security team and a U.S. naval escort. As *Maersk Alabama* steamed away from the lifeboat, the kidnappers used a satellite phone to call in other Somali pirates as reinforcements to help them transport Captain Phillips to the Somali shore to hide him and reduce the chance of the United States' staging a rescue mission. The pirates thought that if they could get Captain Phillips to Somalia, they could leverage a higher ransom. In response to their call for assistance, four foreign-flagged vessels held by pirates headed toward the lifeboat. Collectively, those four vessels held 54 hostages,

including citizens from China, Germany, Russia, Ukraine, the Philippines, Tuvalu, Indonesia, and Taiwan.

In the morning, the third MOTR conference via SVTC convened to share updates on the situation with the interagency; the group had expanded to include representatives from the U.S. Special Operations Command. This meeting revealed several new pieces of information. First, Maersk Line had decided not to conduct independent negotiations and recognized the USG as the lead to resolve the incident. Second, the U.S. Navy reported that the lifeboat was traveling northwest at four knots and was about 240 miles from Somalia. Third, the pirates had negotiated for the medical treatment of their leader, Abduwali Muse, who had been injured during the attack, and food, water, batteries for their radio, and \$2 million for the release of Captain Phillips.

The Navy provided batteries for the radio to maintain communications and delivered food and water on a small boat; however, the kidnappers threatened the life of Captain Phillips when the Navy's small boat got too close for their liking. Two additional U.S. Navy boats, the USS *Halyburton*, a guided-missile frigate, and the USS *Boxer*, an amphibious assault ship, were dispatched and headed to the location to help. The U.S. Navy also reported that two pirate motherships were in the vicinity trying to locate and rescue the kidnappers.

This MOTR conference established another desired national outcome: preventing the motor lifeboat—and embarked pirates and U.S. citizen—from approaching Somali territorial waters or from contacting or receiving any support from any external force not under U.S. control (i.e., other pirates). The interagency also agreed to have the U.S. Embassy in Kenya and Djibouti discreetly devise post-seizure procedures and logistics requests. The interagency also discussed next steps, such as determining how long it would take the lifeboat to reach Somali territorial seas, evaluating possible clan affiliations for the kidnappers inside Somalia, detailing how the FBI would investigate the crew of *Maersk Alabama* once they reached Mombasa, and planning for detainee processing and transfers.

To close out the third day, a fourth MOTR conference convened to update the interagency of the situation. By this point, the lifeboat was still making four knots and was

now about 150 miles from Somalia. Following an escape attempt by Captain Phillips, he was tied to a seat on the interior of the lifeboat. The USS *Bainbridge* continued to supply food, water, and medical supplies to the kidnappers. The pirate motherships, which continued to look for the lifeboat, were now 130 miles away and moving in the opposite direction. The IC linked the pirates that attacked *Maersk Alabama* with an attack of a fishing vessel used as a support vessel. Further tasking by the interagency included the DOJ, FBI, DOS, and DOD's determining a preferred location for transferring any potential detainees (either in Kenya or Djibouti) and the mode of transportation for the detainees. The interagency also discussed Captain Phillips's post-recovery care and debriefing, and the IC was tasked with making an assessment should the Somalis successfully bring Captain Phillips ashore. Discussions also involved establishing contingency public affairs guidance. Figure 9 summarizes the MOTR conferences of the first three days.

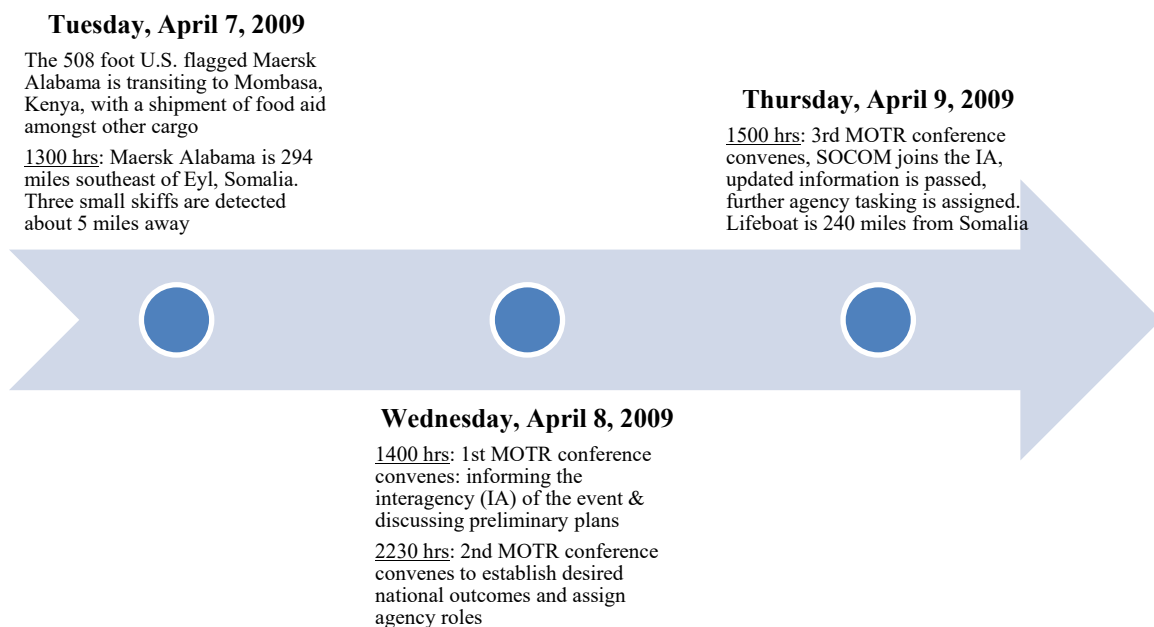


Figure 9. MOTR Conference Timeline, April 7–9, 2009.³¹⁸

³¹⁸ Adapted from Kieserman, “Navigating a Sea of Uncertainty.”

4. Day Four: April 10, 2009

The fifth MOTR conference convened with updated information: the lifeboat had increased its speed to eight knots as it approached within 100 miles of Somali waters and had the potential to make it ashore by late evening on April 10 or early morning on April 11. All the while, the pirates refused to show proof of life of Captain Phillips, but they insisted he was alive. *Maersk Alabama* arrived in Mombasa, where the crew was met by crisis counselors and investigators from Maersk Line.

During the meeting, the DOS was designated as the lead for Captain Phillips's post-recovery care with support from the DOJ (specifically, the FBI). OSD Somali experts would work with the FBI to connect with the clans in Somalia to seek their support. The public affairs objective was established to manage collective messaging, minimize risk to Captain Phillips, and preserve as many options as possible for the field operators. The desired outcomes were revised to include recovering Captain Phillips alive. Follow-on tasking included preparations to discuss contingency plans for dead or wounded pirates.

The DC of the NSC met in the White House later in the afternoon to discuss details of the case and prepare a brief for the president of the United States. The day closed with a sixth MOTR conference. The lifeboat was now 23 miles from the Somali shore, and the Navy noted increased activity inside the lifeboat. The USS *Bainbridge* used the sides of the ship to slow the lifeboat, known as a shouldering technique, to cause it to go off course. The DOD discussed measures to keep the lifeboat from making it to the shores of Somalia, including several options to disable the lifeboat. During the DC meeting, the president confirmed that the standing rules of engagement included using any reasonable force to defend the unit and Captain Phillips.

Meanwhile, the DOD worked with Somali clan elders, who confirmed that the pirates on the lifeboat had been contacting them by satellite phone. The MOTR facilitator provided a letter to the elders assuring the safety and humane treatment of the pirates if they were captured.

5. Day Five: April 11, 2009

Early on the fifth day, the pirates gave proof of life of Captain Phillips, but negotiations broke down after the pirates fired on the Navy's small boats that had attempted to disable the lifeboat's engine. The pirate's gunfire was unaimed and shot wildly from the front hatch of the lifeboat, and the U.S. Navy did not return fire in the hopes of not escalating the situation. Nevertheless, the pirates announced they were beating Captain Phillips in response to U.S. actions. Shortly thereafter, the pirates famously told Reuters during an interview over satellite phone, "We are not afraid of the Americans. We will defend ourselves if attacked."³¹⁹

At daybreak in Washington, DC—or 3:00 p.m. on scene with the lifeboat—the seventh MOTR conference convened. The lifeboat was now 12 miles from the Somali shore, with the USS *Bainbridge* alongside it at a distance of 500 yards. As the operational commander and commanding officer of the USS *Bainbridge*, CDR Castellano decided that if the lifeboat came within 10 miles of the Somali shore, *Bainbridge* would take more aggressive blocking actions. Following the MOTR conference, the NSC updated the president of the United States, who gave policy guidance and the authority to act in the event of an emergency.

Discussions with the clan elders proved to be fruitful, as they ordered the clan not to undertake any pirate rescue operations; intelligence sources indicated that no pirate motherships were in the vicinity, and no skiffs had left the shore. Additionally, the DOD recorded a message from the clan elders that was transmitted from the USS *Bainbridge*, calling for the pirates to release Captain Phillips. The OSD continued engaging with the clan elders for more direct options, and the interagency made deliberate plans for after the pirates were captured.

Less than five hours later, the eighth MOTR conference convened. Through continued negotiations, the OSD reported that the pirates had agreed to steer away from the Somali shore and be taken under tow by the USS *Bainbridge*. The clan elders told DOD

³¹⁹ Abdi Guled, "Pirates Vow to Fight If Attacked," Reuters, April 10, 2009, <https://www.reuters.com/article/us-somalia-piracy-idUSL851535820090410>.

officials that the four pirates' ages ranged from 17 to 19. The USS *Bainbridge* transmitted a second message from the elders to the pirates, and the DOD considered bringing several of the elders out to the lifeboat to assist with the negotiations. Two DOD combatant commanders, one each from the U.S. Transportation Command and AFRICOM, began working with the DOJ/FBI officials in preparation for prosecution.

6. Day Six: April 12, 2009

Early in the morning on Easter Sunday, while delivering breakfast to the lifeboat, Muse voluntarily boarded the USS *Bainbridge*'s small boat, requesting to make a phone call and seeking medical treatment for an injury he sustained to his hand during the attack. Muse boarded the USS *Bainbridge* and, while receiving medical attention, reported that he was 16 years old.

The morning of the sixth day in Washington, DC, saw the ninth MOTR conference convene. The lifeboat was now 20 miles from the Somali shore and still being towed by the USS *Bainbridge*. The pirates provided proof of life of Captain Phillips earlier that morning.

With Muse aboard the *Bainbridge*, negotiations looked hopeful, and the FBI and DOD concurred with not returning Muse to the lifeboat. Discussions turned to Muse's alleged age of 16. The DOS expressed concerns because, if he were 16, Muse would be considered an "unaccompanied minor" and require special handling. To prepare criminal complaints and parole documents, the DOJ/FBI requested names and birthdates of all the pirates. DHS prepared to bring the pirates (who would then be defendants) temporarily into the United States for prosecution. Meanwhile, the FBI discussed evidence-collection requirements, and arrangements were made to transfer Naval Criminal Investigative Service (NCIS) agents from the USS *Boxer* to the USS *Bainbridge* to oversee evidence collection. The DOS and the OSD/DOD successfully negotiated with the president of Puntland (the pirates' region of Somalia), who absolved the elders of any responsibility in surrendering the pirates to the United States.

On the evening of the sixth day, negotiations with the three remaining pirates grew heated when one of the pirates pointed his AK-47 at the head of Captain Phillips.

Calculating that Captain Phillips's life was in imminent danger, CDR Castellano ordered special operator U.S. snipers on USS *Bainbridge*'s back deck to shoot when ready. The snipers shot simultaneously, instantly killing all three pirates. Captain Phillips was rescued.

Captain Phillips was brought aboard the USS *Bainbridge* where he received medical treatment and contacted his family. He was later flown to the USS *Boxer*. The remains of the three deceased pirates were brought aboard *Bainbridge*, Muse was detained, and the lifeboat remained in tow as evidence. The president of the United States received an update on the rescue of Captain Phillips.

To close out the sixth day, the 10th MOTR conference convened. The MOTR priorities shifted to synchronize all interagency efforts to support four lines of effort:

1. Complete arrangements to repatriate Captain Phillips to the United States;
2. Complete arrangements to transfer custody of Muse and any evidence;
3. Complete arrangements to transfer the lifeboat and other physical evidence ashore to the FBI; and
4. Complete arrangements for the disposition of the three pirates' remains.

MOTR participants agreed that Muse's age was a factor, but a U.S. prosecution was still preferred to turning him over to Somalia. According to the DOS, there is no legal standard for the age for prosecution in Somalia. In the absence of that standard, sharia and customary law recognize 15 as the age for prosecution. The interagency decided that the FBI would take the lead on all communications with Maersk Line, and the DOJ delineated thorough collection instructions. The DOS made extensive arrangements regarding transfer logistics and diplomatic authorization. Figure 10 summarizes the MOTR conferences of the last three days of the incident.

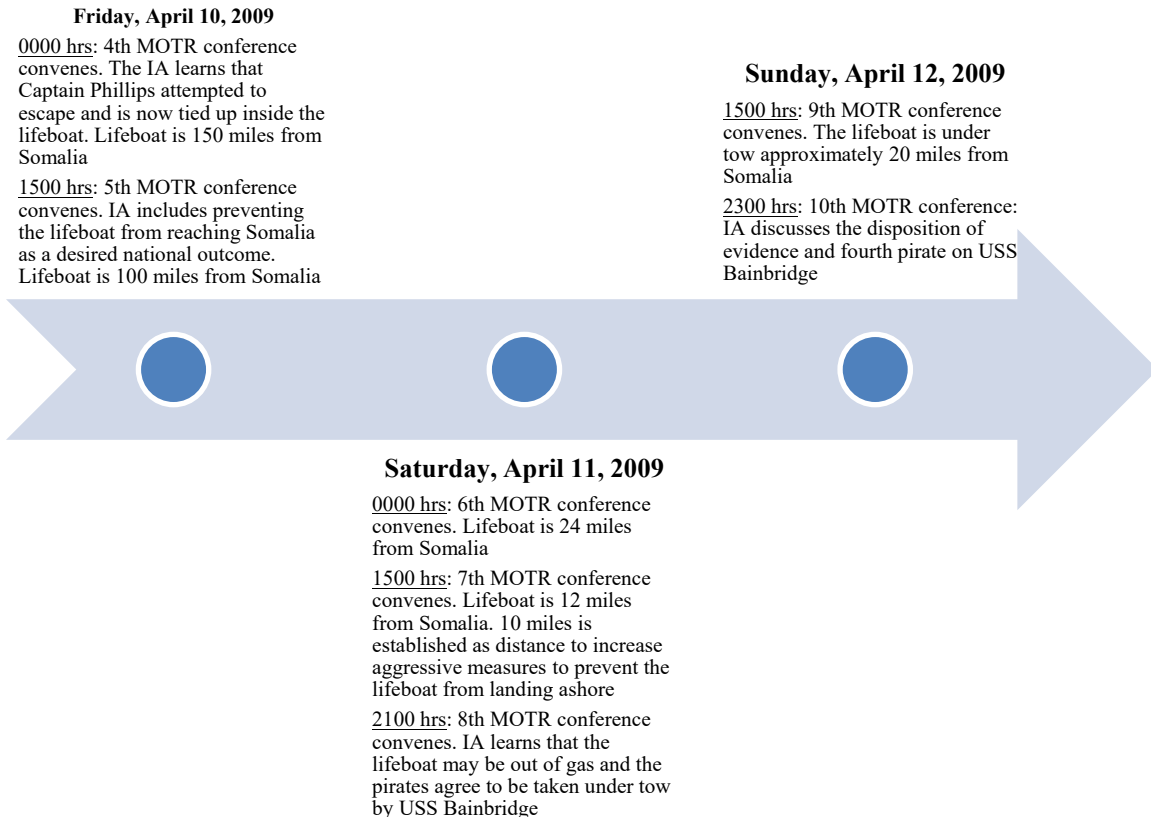


Figure 10. MOTR Conference Timeline, April 10–12, 2009.³²⁰

7. The Aftermath and Implications

Between April 13 and 21, 2009, four additional MOTR conferences took place to provide informational updates and prosecution details. On April 20, Muse arrived in the United States, 14 days after the ordeal began. The following day, the case was closed for MOTR and interagency coordination.

Before the *Maersk Alabama* case, many combatant commanders within the DOD saw the MOTR Plan and the required information sharing as an impediment and an “infringement of their autonomy.”³²¹ Nevertheless, such resistance to information sharing led to complications for the U.S. Navy, demonstrating that working autonomously could

³²⁰ Adapted from Kieserman, “Navigating a Sea of Uncertainty.”

³²¹ Tomasulo, “Evolution of Interagency Cooperation,” 57.

not facilitate decisions surrounding jurisdiction, prosecution, and transportation the way that interagency coordination could.³²²

The *Maersk Alabama* case highlighted the potential for MOTR to expand to more significant events and its usefulness as a whole-of-government response. The implications of such a response to a piracy event extend beyond getting the ship back, rescuing the crew, and capturing the pirates. The USG brought to bear the specialties, authorities, capacities, and capabilities across the full spectrum of the federal roster. The interagency must work collectively on seemingly endless intertwined decisions. The following are some examples from this case:

- From an operational perspective:
 - Work with clan elders to establish alternative options for a peaceful resolution. (DOD)
 - Work with U.S embassies to determine a location for post-seizure logistics—where will detainees be transferred? (DOS)
 - Establish an intelligence assessment if the pirates make landfall. (Intelligence Community/NMIC)
- What will we do with the deceased bodies of the suspected pirates?
 - What agency will coordinate this?
 - How will this be executed?
- Will the United States prosecute Mr. Muse? (DOJ must make this determination)
- Will Mr. Muse's age be a factor, as prosecution changes for underage individuals? (This will require DOJ/DOS coordination)

³²² Tomasulo, 42.

- If the United States does not prosecute, the DOJ will need the DOS to determine whether another country (i.e., Somalia) will prosecute.
- If the United States decides to prosecute, how will Mr. Muse be transported to the United States, and what agency will provide the transportation or fund the transportation?
- Evidence collection (conducted by DOJ/FBI):
 - Until the lifeboat is secured, the NCIS will preserve the crime scene. (This will require coordination between DOJ/NCIS)
 - The FBI must work with the DOS to meet *Maersk Alabama* in Mombasa to conduct interviews and collect evidence.
- Discuss a post-recovery plan for Captain Phillips, including a debrief. (DOS, DOD, and DOJ must coordinate)
- What is the USG public affairs' stance? What will our unified voice say?

Many of the response actions taken were done so by a single agency because it maintained the capability to do so within its inherent legal authority. In fact, in many cases, only a single agency could act; for example, only the DOJ could prosecute the perpetrators. What became apparent, though, was that no single agency could have acted alone to bring this case to resolution, and sharing information with the other groups involved was imperative. The different components of the government worked in concert—with the unity of effort—to achieve a collective desired outcome.

MOTR conferences were held twice a day to maintain the battle rhythm and update decision makers with the latest, most accurate information to ensure everyone was working from the same place. Several times, based on real-time updates, the MOTR team decided to revise its desired national outcomes, which sparked new conversations and new tasking. This continuous communication facilitated deep and thorough discussions that led to prudent and realistic decisions and courses of action. During these conferences, the MOTR facilitator's role became critical to the success of the case. The facilitator maintained the

integrity of the MOTR Plan by guiding participants in their roles and responsibilities and ensuring no one agency tried to exert its authority over another, providing an equal playing field for the interagency. Success depended on the preeminence of the unity of effort over the unity of command.

The *Maersk Alabama* case garnered national media attention, but more importantly, the safe return of Captain Phillips—and how the interagency accomplished that objective—caught the attention of many senior leaders in Washington, DC. MOTR’s successful ability to harness the collective efforts of the USG toward achieving a desired national outcome initiated the steps to establish a permanent federal office to support the MOTR Plan.³²³ Subsequently, the secretary of homeland security mandated the GMCC be created. In February 2010, the GMCC became the executive secretariat of the MOTR Plan and its protocols, as well as its national coordinator, providing 24-hour threat response coordination for federal agencies supporting the NSC.³²⁴ In August 2012, PPD-18, *Maritime Security*, reaffirmed the 2005 *National Strategy for Maritime Security* and formally recognized the GMCC as having the responsibility to coordinate interagency responses to maritime threats.³²⁵

D. CONCLUSION

Through continued use, the MOTR Plan has proven its ability to guide federal agencies with overlapping responsibilities and interests through the many complexities and challenges associated with the maritime domain. The three cases presented in this chapter offer a glimpse into the utility and flexibility of the MOTR Plan that has allowed it to be an effective tool of the federal government to coordinate responses to maritime threats.

Sun Sea identified the MOTR Plan’s ability to integrate with similar mechanisms found in other countries. The lessons learned from *Sun Sea* revealed limiting factors in both the Canadian and U.S. processes that were remedied through an addition and modification

³²³ Genovese, “The Maritime Operational Threat Response Plan,” 57.

³²⁴ Wilson, “Making Stovepipes Work,” 36.

³²⁵ Obama, *Maritime Security*.

to the MOTR protocols. This ability to adapt and facilitate the exchange of maritime threat information between the two countries highlights the MOTR Plan's ability to overcome bureaucracy and create solutions to complex problems.

The case surrounding the *Zumaque Tracer* began as many in the maritime domain do, with standard procedures to execute them. When events began to conflict with those standard procedures, the MOTR Plan coordinated efforts by federal partners to accomplish a desired national outcome. *Zumaque Tracer* is an example of one way that the MOTR Plan facilitates solutions to uncommon problems.

Maersk Alabama was a landmark case that validated the MOTR Plan as a useful, scalable tool but also highlighted the maritime domain as a threat to the United States and its interests across the globe. This thesis has looked at the MOTR Plan and process in action, and the *Maersk Alabama* case illustrated both in detail. The final chapter of this thesis details the establishment of the GMCC following the *Maersk Alabama* incident, general findings of this thesis, and recommendations for the GMCC and related response organizations.

VI. FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

As discussed in this thesis, the GMCC's establishment came as a result of successful MOTR Plan implementation during the hijacking of the *Maersk Alabama* and kidnapping of Captain Richard Phillips. The success of this case gained the MOTR Plan visibility among members of the NSC staff, the secretary of defense, and most notably, the secretary of homeland security. In the case of the *Maersk Alabama*, the "MOTR Plan and its associated protocols were used during the video feeds that linked federal agency watch centers with senior-level officials and subject matter experts."³²⁶

After the rescue of Captain Phillips, the secretary of homeland security mandated that the GMCC be established, and it was fully implemented in February 2010. The GMCC became the executive secretariat of the MOTR Plan and its protocols, and as the national MOTR coordinator, it has provided 24-hour threat response coordination for federal agencies supporting the NSC's staff.³²⁷ In August 2012, PPD-18 reaffirmed the 2005 *National Strategy for Maritime Security* and formally recognized the GMCC's authority in coordinating interagency responses to maritime threats.³²⁸

In the beginning, debate ensued over which department of the USG would fund, support, and house the GMCC; the main competitors were the DOD and DHS. Ultimately, DHS took ownership and placed the GMCC at USCG Headquarters under the deputy commandant for operations, as the USCG is the MOTR Plan's largest consumer. The GMCC's staff is housed administratively within the USCG, under the operational control of DHS, and is accountable to the NSC while coordinating a maritime response. In practice, the GMCC serves as an honest broker of information, always mindful that, during interagency interactions, it represents neither the USCG nor DHS but works for the interagency and the integrity of the MOTR Plan. Moreover, while the GMCC is the executive secretariat of the MOTR Plan, the plan belongs not to the GMCC but to the

³²⁶ Genovese, "The Maritime Operational Threat Response Plan," 56.

³²⁷ Wilson, "Making Stovepipes Work," 36.

³²⁸ Obama, *Maritime Security*.

interagency partners in the process. As mentioned previously, the MOTR Advisory Group includes experts from across the federal government who review and approve current and future MOTR policy processes.

Today, only five people staff the GMCC, including the director, the assistant director, a senior interagency facilitator, and two active-duty USCG officers who serve as interagency facilitators. The MOTR Plan is used daily, and the staff tackle every event collectively. Many of the daily cases involve drug smuggling and migrant interdiction issues that fall under the purview of MOTR protocols, such as migrant business rules or right-of-visit boardings. In these cases, the interagency has given standing concurrence to execute missions as outlined in applicable protocols. These cases do not require specific interagency coordination because the partner agencies have already agreed on how the situation should be disposed.

Frequently, a case that falls under the protocols develops into a scenario requiring interagency coordination, such as that seen in the *Zumaque Tracer* case. For example, there is standing MOTR concurrence, as detailed in Executive Order 12324, to return migrants “to the country from which [they] came, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that no person who is a refugee will be returned without his consent.”³²⁹ There is not standing concurrence, however, on the disposition of a migrant who manifests fear determined to be credible by USCIS. In this instance, MOTR coordination is required to determine what the course of action should be to achieve the desired national outcome.

The GMCC has kept the MOTR Plan applicable to its users. As a small but dedicated office charged with administering the plan, the GMCC reinforces the plan’s relevance by updating the protocols to fit the evolving needs of the USG. The GMCC is also charged with conducting outreach and training domestically and internationally to

³²⁹ Ronald Reagan, Executive Order 12324, “Interdiction of Illegal Aliens,” *Code of Federal Regulations*, title 3 (1981 comp.): 180, <https://www.archives.gov/federal-register/codification/executive-order/12324.html>.

enhance awareness of the MOTR process.³³⁰ A dedicated staff that facilitates MOTR activities and information sharing free participating agencies from the coordination burden that would otherwise be required. All these things have kept the MOTR Plan from languishing and have given rise to continued and growing partnerships.

A. FINDINGS

Despite the success of the MOTR Plan, not until this thesis have the elements that define its advantages been clearly identified so that other domains; federal, state, and local governments; and international partners can benefit from its model of interagency collaboration. Based on the assumption that the MOTR Plan and process are universally adaptable, this thesis explored the question of which components could function successfully across interagency groups, and which elements of the plan might be adapted and exported to other programs or allied nations looking to improve government coordination.

The MOTR Plan is a successful framework for interagency coordination for maritime threat response. It is “not the only construct that brings together multiple agencies to coordinate government actions, but it importantly bridges homeland security and homeland defense concerns.”³³¹ It works because coordination is necessary, and no one agency can do it alone; indeed, “responding to transnational threats and securing law enforcement, diplomatic, and logistics cooperation is crucial to those efforts.”³³² Given the growing number of U.S. agencies with maritime security responsibilities, the maritime domain is “seldom the province of one agency.”³³³

Several successful groups, mechanisms, and frameworks involve interagency interaction and coordination. A few of these have been examined in previous chapters, for example, the NSC; the NRF, including NIMS and the ICS structure; and JIATF-South. In

³³⁰ Wilson, “Making Stovepipes Work,” 35.

³³¹ Wilson, “Making Stovepipes Work,” 36.

³³² Wilson, 36.

³³³ Wilson, 36.

addition to these successful coordinating groups are the AMSCs, briefly mentioned in Chapter II. Much like the Area Committees that create ACPs for an environmental response, as discussed in Chapter III, the AMSCs produce area maritime security plans (AMSPs) with federal, state, and local law enforcement and industry partners to mitigate threats in a USCG sector's ports and waterways. Each USCG sector is responsible for crafting its AMSP with the region's law enforcement and port partners and developing strategies and plans at the local level.³³⁴ Mechanisms such as these have in common a clear path to reach their goals; for example, JIATF-South has its mission statement, ICS its Incident Action Plan, and the AMSC its AMSP. What they also have in common are clear authorities and roles to complete their missions.

These clear authorities and roles are not a universal reality in the maritime domain, because the authority or indication of which agency should take the lead is often ambiguous. Understandably, there is “no single model for effective national-level maritime response coordination, as each process reflects varying national-level priorities, involved agencies, and organizational structure.”³³⁵ The MOTR Plan fits here—where no plan exists, and authorities and roles remain unclear. MOTR is most effective when jurisdictions or authorities overlap, and no one agency owns the space.

B. WHY THE MOTR PLAN WORKS

Simply said, the MOTR Plan works because coordination is necessary. This thesis has explained that the maritime domain is unique in its physical characteristics and legal architecture. These physical and legal hurdles lend themselves to departments and agencies that rely on one another to execute the respective authorities that permit them to operate and advance a common objective. This reliance necessitates coordination, and the MOTR

³³⁴ “Area Maritime Security Committee (AMSC),” U.S. Coast Guard, Domestic Ports Division, accessed August 9, 2022, <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/Office-of-Port-Facility-Compliance/Domestic-Ports-Division/amsc/>.

³³⁵ Brian Wilson and Scott Genovese, “A Networked Response to Maritime Threats: Interagency Coordination,” in *Maritime Security: An Introduction*, ed. Michael A. McNicholas (Cambridge, MA: Butterworth-Heinemann, 2016), 427.

Plan serves as that coordinating mechanism. In this way, working in unison is more efficient than working alone.

While there is a presidential mandate for federal agencies to collaborate through PPD-18, the nature of the operating environment naturally lends itself to coordination through the MOTR Plan. Mandated collaboration is nothing without the MOTR Plan's ability to establish consensus on the desired national outcome of a scenario, around which departments and agencies coalesce. It is the establishment of the desired national outcome that drives participants to act.

As a fully functional unity-of-effort model, the MOTR Plan offers an agreed-upon process and an opportunity to express the needs and concerns of an organization required to concur with a course of action. With an equal voice in the process, no one agency has authority over another, allowing participants autonomy in their activities within their own legal or statutory frameworks while contributing to the common objective or desired national outcome. Built into this process, through lessons learned from the NSC model, is the mechanism of conflict resolution. If an agency does not concur with a course of action, the matter is either further reviewed or escalated to a DC for guidance and resolution.

The concept of conflict resolution and the idea that competing ideas, interests, legalities, and other roadblocks to agreement can be resolved at a higher level of authority is an advancement over a strict command-and-control or unity-of-command method. The discussion and debate over policy, procedure, or even legal differences enhance the MOTR process by recognizing the limitations of each organization and developing better ways to come to a decision while working within those limitations.

The autonomy of MOTR agencies sharply contrasts that of other models, as examined in this thesis. For example, in ICS, organizations agree to work under the direction of the incident commander or a unified command. In the case of JIATF-South, participating agencies, many of them civilian organizations, work directly for the JIATF-South's director in a top-down military and unity-of-command structure. This type of military structure is often used with other civil-military operations wherein civilian agencies operate under a memorandum of agreement or another legal arrangement for a

single defined task.³³⁶ The MOTR process clarifies and defines a common goal. To achieve that goal, lead and supporting agency roles are determined, but no agency works for another or operates under any other agency's legal authority.

As mentioned in Chapter III, having specific triggers for the MOTR Plan guides departments and agencies toward initiating action. These prompts for action also help to manage the expectations of participating organizations and, along with the protocols, make the process consistent, predictable, and repeatable. The protocols also create flexibility within the plan to expand guidance and establish standing agreements and consensus on how specific threats in the maritime domain should be addressed. The protocols reduce the rigidity often found in other procedures, giving the plan relevance and adaptability. The MOTR Plan is not prescriptive but instead offers guidelines for decisions, as no two cases are the same. The MOTR Plan does not compel an organization to take specific action but provides the opportunity for participating organizations to work within their own procedures. This flexibility encourages open participation.

The history of the MOTR Plan and the GMCC, as understood through the Kudirka case, recognizes the importance of information sharing as a component in finding the right solutions and case resolution. The ability to share information across departments and agencies is a force multiplier for interagency collaboration. The *Sun Sea* case demonstrated a somewhat successful distribution of information. The partial success occurred on the U.S. side, but the case identified a gap in information sharing with international partners. Optimistically, this led to stronger relationships and better lines of communication between the United States and Canada. The *Maersk Alabama* case demonstrated exactly how information sharing fed the response and decision-making in a positive way.

The MOTR Plan provides a mechanism, through the GMCC, to distribute information daily and synchronize information during threat response coordination. The GMCC distributes a “daily summary” of active MOTR cases. The summary is the GMCC's way of communicating interagency efforts to a broad audience with interests in the maritime domain. Chapter III also highlighted the I-MOTR as another tool used to share

³³⁶ Department of Defense, *Joint Guide for Interagency Doctrine*, IV-2.

information with the interagency. In addition to the daily summary and I-MOTRs, the GMCC also publishes a case summary at the conclusion of every MOTR conference that details the participants involved; the facts of the case; the desired, agreed-upon, national outcome; and the courses of action that will achieve it, in addition to the lead and supporting agencies. The case summary is distributed to achieve maximum transparency and remove ambiguity about interagency consensus and expectations of participating agencies.

As a matter of execution, a dedicated staff that facilitates the process ensures the progression of cases and concerns of all participants are heard and addressed. This neutral facilitation provides the arena for discussing concerns or disagreements but also an effective means of resolving them before escalation is required. Through the facilitation of the process, the plan is usable and agile. From the perspective of the interagency facilitator, the GMCC brings the interagency together to make a decision on behalf of the USG; this process always begins with the following questions: “What are we asking the federal government to do, and what problem are we asking the interagency to answer?”

The MOTR process effectively brings organizations together, reveals and clarifies all the available facts and information, provides a venue to discuss any issues that the facts present and their impact on participating agencies, develops a course of action, and clarifies roles and responsibilities. Defining clear roles helps to identify who is doing what and where each organization fits into the response in relation to one another. Figure 11 illustrates these and other interrelated elements of the MOTR Plan.

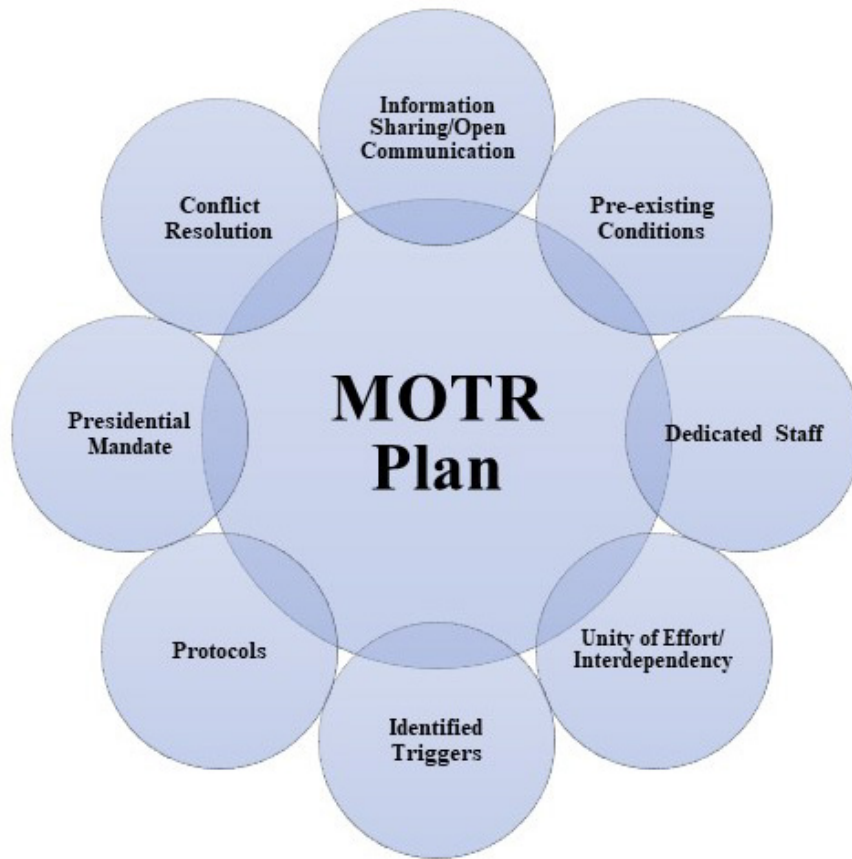


Figure 11. Elements That Make the MOTR Plan Successful.

C. CONCLUSIONS

The MOTR Plan was designed for the unique environment of the maritime domain. No one owns the world's oceans. It is true that international law recognizes zones where coastal states can exercise certain legal rights, but then only under certain conditions, as explored in Chapter IV. Undoubtedly, the world's oceans represent a relatively lawless and legal challenge for homeland security professionals. The immensity of the open ocean and the intricacies of port complexes provide ample opportunities for terrorist organizations or transnational criminal organizations to exploit the natural gaps created there. Interestingly, these opportunities represent an inverse relationship for those looking to thwart that activity, namely law enforcement and homeland security professionals: the larger the area, the more the legal hurdles, and the greater the difficulty in defending and protecting it.

In a simple example, on land, a law enforcement unit can easily be sent to investigate suspicious activity or enact some other homeland security measure to mitigate potential threats. This is not the case in the maritime domain. When alerted to a potential threat in the maritime domain, the first challenge is locating and positively identifying the threat (e.g., vessel, container, or person). The next challenge is intercepting and interdicting the threat as far from U.S. waters as possible to minimize the impact to the homeland. This becomes a time-speed-distance issue: distances between available resources and the threat can be significant and require considerable time, days in many cases, as shown in the *Maersk Alabama* case. The threat still needs to be investigated, verified, and validated, as shown in the Lemon Gate case. If the threat is a vessel or even on a vessel (e.g., a person or cargo), the following challenge is getting on board to investigate. If a vessel is foreign flagged, it requires the flag state's consent to board and further consent, circumstances depending, for any expected legal action, as shown in the *Zumaque Tracer* case.

In such instances, several departments and agencies contribute to the case's conclusion, showing how interconnected threat response in the maritime domain can be. The intelligence collection needed to locate and positively identify the threat would likely include the National Maritime Intelligence-Integration Office, the USCG, and CBP. The USCG or U.S. Navy is likely to intercept or interdict a vessel; however, the threat's nature may require the USCG's legal authority to get on board, given the restrictions found in the Posse Comitatus Act, as discussed in Chapter II. Flag state engagement would require participation by the DOS, and any prosecutorial action would require the DOJ's participation. In addition, any law enforcement seizures of vessels, persons, or cargo as evidence for prosecution will have logistic requirements that involve other agencies, especially those with the means to fund such endeavors. Furthermore, members of the IC will collaborate to validate the information. The U.S. Navy may need the USCG to conduct law enforcement without being seen as carrying out an act of war on a foreign vessel. Finally, the DOJ has the prosecutorial apparatus and legal authority to bring suspects to court in the United States.

It is impossible for a single department or agency to provide comprehensive homeland security necessary to respond to transnational threats and execute effective law

enforcement and prosecution, in addition to diplomatic and logistics requirements. The MOTR Plan operates where no one can work alone, where disparate organizations need each other. The maritime domain affords time to make decisions and hold discussions, both operationally and legally. Many events occur far out at sea in remote locations (high seas) where there is prolonged reaction time. Thus, the operating environment is remote and vast and gives tactical operators room to operate.

Because the maritime environment is unique, elements of the MOTR Plan, its protocols, and the processes that have developed over time may not be universally applicable or adaptable for every interagency group looking to collaborate. Nevertheless, the MOTR framework is best suited for coordination where there is no plan or owner, as in the maritime domain. Thus, the MOTR framework is ideal for similar environments, such as airspace, outer space, and cyberspace. Just as no one owns the oceans, no one owns the air or space, or especially cyberspace. The elements of these domains are similar: they are enormous, and threats need to be located, correctly identified, validated, and mitigated. The potential for logistics and foreign engagement and the need for prosecution also exist.

Often areas of overlapping jurisdictions or authorities outside the maritime domain have mechanisms in place, such as memoranda of understanding or memoranda of agreement that facilitate cooperation, such as those of the JIATFs and AMSCs. Certainly, however, elements of the MOTR Plan can be adapted by any interagency group even in these circumstances. An excellent example is how MOTR, or specifically the GMCC, manages and distributes information. Having a clearinghouse for information that the interagency group would find useful or actionable can be easily adapted.

Some obvious components of the MOTR Plan are not universally exportable. Concepts such as conflict resolution are not as easily translatable without a higher authority to appeal to, and certainly, a presidential mandate to collaborate does not exist for all interagency groups. These are two components that form the backbone of the plan: an order by the president to do it and a mechanism to find resolution through the NSC. Additionally, the structure of the plan's execution, management, and administration may not be feasible for interagency groups that already exist. As the executive secretariat of the plan, the GMCC has made valuable contributions to keeping the plan current, relevant, and usable.

Further, having a dedicated staff to facilitate interagency partners through a response creates order from potential chaos and adherence to agency norms. A neutral arbiter enables agencies to maintain their autonomy.

Many if not all of MOTR's crucial elements can be implemented and applied to other organizations with similar characteristics. Developing triggers, creating autonomy in pursuit of a desired national outcome, and structuring a mechanism for conflict resolution are all possible. Additionally, creating a dedicated staff like the GMCC can facilitate the necessary coordination and distribute relevant information.

D. RECOMMENDATIONS

The MOTR Plan has been successful in coordinating interagency response to maritime threats. The case studies highlight how the MOTR Plan is used operationally, and this thesis has demonstrated how the plan's core concepts can be adapted outside the maritime domain. The following recommendations apply to the GMCC, domains other than maritime, and other potential areas.

1. Recommendations for the GMCC

The emerging landscape for threats to the maritime domain include illegal, unregulated, and unreported (IUU) fishing, the Arctic, and cybersecurity threats. The GMCC is ideally situated to manage those threats. One recommendation for the GMCC and MOTR Plan in the near term is to continue to develop protocols to address these threats.

IUU fishing and forced labor operations offer unique international challenges that the GMCC has a long history of managing. This is a classic maritime domain issue with few current enforcement options—a Cynefin-evoking problem with no good answers. The June 2022 National Security Memorandum 11 directs DHS and the NOAA to use the MOTR process “to facilitate interagency notifications, responses, and legal enforcement actions for IUU Fishing offenses, including taking appropriate action when forced labor is

identified.”³³⁷ The GMCC has facilitated many tabletop exercises, but no current IUU fishing protocol exists. The GMCC should develop an IUU fishing protocol with possible inclusion of and participation from other international partners.

The GMCC has put significant effort into bolstering international relationships, including those in the Arctic. The *Sun Sea* case led to the MERP/MOTR Strategic Protocol, and separately, the GMCC has forged a similar information-sharing arrangement with the Kingdom of Norway. A strong and open relationship with both Arctic countries opens opportunities with strategic regional partners not found anywhere else in the USG. The GMCC should integrate Canada and Norway into the development of an Arctic protocol.

Cybersecurity in the maritime domain is no less complex than any other event that occurs there. The GMCC established its Cybersecurity Protocol in 2018, establishing lines of communication and information sharing for cyber events in the maritime domain. Cyber events in the maritime domain are rare, and the GMCC has been involved in cyber security cases before. The GMCC should continue to aggressively pursue opportunities to educate maritime partners on the Cybersecurity Protocol and exercise it frequently.

The protocols of the MOTR Plan are simply scenarios for which the interagency offers standing concurrence for action. The director of the GMCC says that the group continues to develop the MOTR Plan by building protocols, which will eventually put the staff out of work. In other words, as new scenarios develop and the GMCC writes corresponding protocols, the interagency will have predetermined solutions and will no longer need to agree on anything—as agreement on how to deal with a situation already exists. Dissolution is a long way off for the GMCC, as a “complete” MOTR Plan and protocols are even further away, if written or refined at all, for other domains like cyberspace and outer space.

³³⁷ Joseph R. Biden, “Combating Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses” (official memorandum, Washington, DC: White House, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/06/27/memorandum-on-combating-illegal-unreported-and-unregulated-fishing-and-associated-labor-abuses/>.

2. Recommendations for Similar Environments

As mentioned previously, the MOTR framework may be applied to environments where there is no owner. Again, the maritime domain and cyberspace and outer space share elements such as the size, scope, and overlapping responsibilities that exist there. Cyberspace offers unique challenges, not least of which is the number of agencies now involved in a response or with nodes to monitor, track, record, and report actual or potential attacks. Again, this is a space that no one owns, but many are involved. There is an opportunity for the MOTR Plan to be adapted in this area. Adaptations of the MOTR Plan and its time-tested processes can be used to describe the facts of what happened, collectively agree on a desired national outcome, discuss courses of action to arrive at that outcome, identify lead and supporting roles and responsibilities based on appropriate authorities, and develop a public messaging scheme. This process does not work everywhere, but cyberspace lends itself to the time, speed, and distance of the equation and abstraction of the environment.

Outer space is a realm not yet explored but has similar physical characteristics as the maritime domain given its vastness and complications with time, speed, and distance. While robust legal frameworks for outer space do not currently exist, space law in the form of treaties is governed by the United Nations Committee on the Peaceful Uses of Outer Space.³³⁸ The main treaty dealing with space law is the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, which importantly notes that “outer space . . . is not subject to national appropriation by claim of sovereignty.”³³⁹ Thus, legally, no one owns space. The MOTR Plan can be adapted there to manage the inevitable threats that will arise in this domain.

³³⁸ Space Foundation, *The Space Briefing Book: A Reference Guide to Modern Space Activities* (Colorado Springs: Space Foundation, 2022), 13–14, https://www.spacefoundation.org/space_brief/international-space-law/.

³³⁹ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, 610 U.N.T.S. 205 (1967), art. 2, <https://www.unoosa.org/oosa/en/ourwork/spacelaw/treaties/outerspacetreaty.html>.

3. Recommendations for Other Applications

Many threat responses involve the participation of multiple agencies from multiple jurisdictions for events that may not have a clear plan, protocol, or procedure to follow. New urban–rural interfaces or even instances of active-shooter events may not have clear lines of roles and responsibilities. Elements of the MOTR Plan have potential to fit there. This author recommends that state, regional, or local municipalities explore ways to incorporate these elements into response procedures.

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